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A NEW PHASE

IN

ECCLESIASTICAL LAW

AND

Presbyterian Church Government,

AS

RECENTLY ADMINISTERED IN THE SESSION OF THE MADISON SQUARE  
CHURCH, AND IN THE FOURTH PRESBYTERY OF NEW YORK:

BEING ALSO AN

EXPLANATION AND APPEAL

TO MEMBERS OF SAID CHURCH.

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*This Pamphlet is not for general circulation.*

It is *especially* designed for those to whom it is addressed, and to explain away wrong impressions, to correct errors of judgment, and to vindicate my action in the matters referred to therein. It will be sent to such others only as have manifested, or are known to take, a deep interest in the general subject discussed—and to those of the Fourth Presbytery of New York, and of the Synod of New York and New Jersey, who are believed to be deeply interested in the just administration of the Laws and Ordinances of the Presbyterian Church.

It was prepared immediately after the extraordinary action of Session and Presbytery therein exposed. Its publication has been withheld at the earnest request of several, who have expressed anxiety and desire for a friendly adjustment of all difficulties, without this painful exposure.

To that end, efforts have been made by disinterested and mutual friends, some of which will be explained in the added pages of this pamphlet. Those efforts having failed, there seems now to be an increased necessity for this vindication.

With a view to the most judicious and proper action in the premises, it has been submitted to some thirty ministerial and other friends of *all the parties*; including several members of both Session and Presbytery, who voted for the acts complained of; in response to which I have received the most extreme suggestions and advice—from that of a total suppression of this publication, and all further action, up to the most vigorous and persistent litigation, in both civil and ecclesiastical courts.

A large majority favor the course here adopted, and a final dismissal of the whole matter; while many, mostly clergymen, advise to carry it up to Synod, as a duty to justice and the honor of the Church.

My own preference, and that of most of my personal friends,

favor the former course. It is believed that my cause, and my position in the controversy, would thus be sufficiently vindicated. I had fully determined upon this latter course, as stated in the original of this exposition ; but, in deference to the wishes of many ministerial friends, I have consented to leave the question of prosecuting my appeal and complaint in Synod for future decision.

Among others, this exposition was submitted to six members of Session and the same number of Presbytery, with the request that any misstatements might be pointed out for correction. Two members of both of these courts have replied in writing, thus : " I do not discover any misstatement of the transactions of either Session or Presbytery," and " I do not notice any misstatement as to any matter of fact which transpired in your case, either before the Session or the Presbytery." Several others replied verbally to the same effect. While none took exceptions to the *facts* stated, some objected to the *manner* of stating them ; and some omissions were complained of. In this revision, I have endeavored to correct every error suggested.

A general statement of the case will be found in the first twelve pages. The remainder is devoted to the proceedings of Session and Presbytery,—the documents laid before those bodies, including Mr. Dodge's letters confessing my charges—notice of intention to appeal to Synod, with the reasons therefor,—Judge Bronson's and Messrs. Man and Parson's statements and legal opinions of the calumnies complained of, and other necessary explanations and evidence.

For all these painful developments, and for whatever else of unpleasantness to me or others may ensue, the Judicial Committee and their coadjutors in Presbytery and Session, whose extraordinary actions have caused this communication, must be held responsible.

The reader will please correct the following ERRATA :

At page 36, in the 11th line from bottom, for " are view," read " a review."  
 " 48, " 8th " " for " Chap. IX.," read " Chap. IV."  
 " 48, " 7th " " for " after this was signed by me,"  
 read " when this was signed."

## AN EXPLANATION AND APPEAL

*To my Friends in the Madison Square Presbyterian Church.*

“If thy brother shall trespass against thee, go and tell him his fault between thee and him alone; if he shall hear thee, thou hast gained thy brother. But if he will not hear thee, then take with thee one or two more, that in the mouth of two or three witnesses every word may be established. And if he shall neglect to hear them, TELL IT UNTO THE CHURCH; but if he neglect to hear the church, let him be unto thee as an heathen man and a publican.”—MATT. xviii, 15, 16, 17.

### BRETHREN :

It is known to many of you,—has long been known to some,—that serious matters of difference, such as are not excusable between professing Christian men, have for years existed between Wm. E. Dodge and myself.

Some of you know that the acts of which I have been obliged to complain are most extraordinary, and such as it would be difficult to justify or to excuse on the part of any man of ordinary character and intelligence; and some few of you know (having read some of the correspondence and other documents herewith submitted), how long and how diligently I have labored with him, through friends, by correspondence, and otherwise, for an adjustment of all our difficulties upon Christian principles; and how often, and how earnestly, and how *vainly*, I have appealed to his “Christian duty and honor” and his “sense of justice as a man,” and to every other noble sentiment, either to prove, justify, or retract his unprovoked calumnies and wrongs. Some of you are also informed of my more recent efforts to obtain a deliverance from Mr. Dodge’s calumnies through the judicatories of our Church, in the ways enjoined in its ordinances; and also the curious results of those efforts, brought about by “the unlimited exercise of discretion,” and a new and unauthorized construction of our ecclesiastical laws. (See pages 39—45.) But some of you, being ignorant of all the important facts in the case, through misrepresentations or otherwise, have unwittingly done me great injustice in your judgment of both my acts and motives.

To correct such misstatements or errors, by giving you the simple and well-authenticated facts in the case, and thus to remove all excuse for further acts of injustice to me, is my purpose in this communication. Having suffered until patience has ceased to be a virtue, and till that “charity which beareth all things” is liable to be construed into pusillanimity; and having conformed to all the requirements of my text, save the last,—as well as to all that is enjoined by the constitution and laws of our church,—it has

become my duty to myself, my family, and to the church, to conform to our Saviour's injunction, and literally to "*tell it to the church*," and then to leave my calumniator to the closing sentence of our text. As I shall soon show you, I am *driven*, by the acts of Mr. Dodge and his friends, to this last resort.

I, therefore, bespeak your patient and impartial consideration of the facts which I will now submit, being all sustained by the accompanying well-authenticated official and other documents, copies of all of which are now in possession of Session, and by statements certified by both members of Session and of Presbytery, and abundantly sanctioned by other acceptable evidence, ready to be produced on any proper occasion.

Preliminary to a true understanding of what follows, and to correct misapprehensions on that point, it is necessary to state that the matters now at issue between Mr. Dodge and myself are in *no sense* of a pecuniary or business interest, as between us; but are wholly of a *moral* nature; and that they originated in the discussion of a code of By-laws offered for adoption, and recommended by other parties, and designed to define the qualifications, limit the powers, and restrain the extra official acts of the officers and managers of an incorporated company, of which Mr. Dodge was a manager, and I, then and since, but a stockholder.

A reference in said discussion to the "extra official acts and conflicting interests" of some of those officers and managers, which had often (and then recently) been condemned by our highest courts of law and equity as both illegal and immoral, resulted (foolishly, as it proved) in the appointment of an Investigating Committee, to whom those imputations were submitted; containing *not one personality* or any charge which *very seriously* affected the moral character of any one; but in response (not in reply) to which, Mr. Dodge and others submitted in writing to the said committee thirty-one folio pages, almost wholly filled with personal calumnies, slanders, and other injurious imputations, well calculated, and, as I believe (and as is believed by others from an examination of the document itself), designed to destroy my character and reputation in the estimation of said committee, thereby to save themselves from merited reproach.

The report of the said committee, and their libelous card subsequently published in the *New York Times*, seem to show conclusively that such were the results produced upon their minds.

As specimens of those calumnies, and for his confessions of them, see the following correspondence with Mr. Dodge, commencing at page 21; and for their nature, and libelous character, &c., see the STATEMENTS AND LEGAL OPINIONS of Judge Bronson and Messrs. Man & Parsons at pages 58 and 59; from which it will be seen that the wrongs of which I complain are exceedingly flagrant, unprovoked, and altogether inexcusable in a Christian brother. See also editorial notices of Judge Davies', and other judicial decisions and comments upon similar cases occurring at that time (page 60).

Any parties sufficiently interested may see the whole history and nature of the case in the "Review of the Report of the Committee," referred to, and the Pamphlet "Railroad Mismanagement—the Dangers of Exposing it," &c., which will be furnished to the curious on application.

As those documents have been four years before the public without one attempt to disprove, or even a denial of, their statements, by any responsible party, they may be referred to with confidence.

I will now undertake to show you from the following documents, certified by their Stated Clerk, now in the possession of our Session :

FIRST, That for three years past there has been a continuous proposition, often and earnestly pressed upon Mr. Dodge, to submit all our matters of difference for a final settlement upon Christian principles, to three or five of our mutual friends, which have as persistently been rejected by him, and for the most frivolous and disingenuous reasons. See pages 25, 28, and 32.

SECOND, That as early as April, 1860, after Mr. D. had taken his letter to our church, and nearly a year and a half before he joined it, I laid these matters before our Session, with a view to avoid the very difficulties which have recently occurred.

THIRD, that all other means of redress having sadly failed (see the closing paragraph of my letter to him of May 16, 1862, quoted at page 32 following), I was compelled to lay my complaint before our Session, and the certified Minutes of Session (page 37) will show that they were placed in the hands of the Stated Clerk in April last, and were taken up by Session for consideration on 27th of May.

FOURTH, that while I thus submitted *nine distinct documents*, including Mr. Dodge's confessions, and other proofs and testimony, the whole are generally referred to, in the said minutes, *only* as "*the communication of Mr. Phelps*;" nothing being said about "*charges*," nor any designation by titles, dates, or otherwise, to express the nature of said documents, or to trace them from the minutes to their files; thus early indicating that partiality and disinclination to entertain my charges herein complained of. See minutes, page 37.

FIFTH, from the said Minutes of Session (page 37) it will appear that, on June 5th, a very respectable committee of that body was appointed, "*with power*" to confer with Mr. Dodge and myself, "*with a view to a settlement of our difficulties, and to report to Session*;" and that while I met with said committee and offered to meet with Mr. Dodge, and conform entirely to the committee's desires in the premises, the said Dodge contumaciously rejected all such propositions and overtures, and persistently refused to meet either the committee or myself. See pages 39 and 54.

SIXTH, that upon said committee's full report of all these facts to Session at their meeting, October 20th, they suffered to be entered upon their minutes *only* that "*the committee had been unable to accomplish the objects for which they were appointed*," thereby doing me great wrong in the suppression of the most important facts in the case. See said minute, page 37; also, statement at pages 39, 40, 54 and 55.

SEVENTH, that at the subsequent meeting of Session (November 4th), while my said complaints were under consideration, an adjournment was moved to permit one of the brethren to make a final effort for a harmonious adjustment of these difficulties; and that, after several days' negotiation, an agreement was made, in writing, under date of December 8th last, almost wholly in conformity to Mr. Dodge's demands, submitting all matters of difference between us to the decision of five mutual Christian friends, the whole to be disposed of in *one evening*, and which agreement was signed by the parties and witnessed by the said brother; and that the same was, the very next day, annulled, repudiated, and his name erased therefrom by Mr. Dodge, without my knowledge or consent, and all further negotiation peremptorily closed

by him. See the said certified agreement and the correspondence referring to it, at page 47 and following.

*Note.*—No reference whatever was made to this matter in the Minutes of Session. See my complaint to Presbytery concerning it, at page 89.

EIGHTH, that my communication to Session of December 12th (see page 32), designed and well calculated to relieve Session from all embarrassment, by disposing of the case *in two evenings without any witnesses*, was simply "read and placed on file" (see Minutes, page 37); and that no other notice was taken of a proposition which might have promptly and pleasantly terminated all our difficulties, and without any sacrifice of proper Christian pride on the part of either Mr. Dodge or his friends in Session.

NINTH, I shall show, and undertake to prove by members of Session themselves on any proper occasion, that by the extra official acts of some of Session, I was unexpectedly frustrated in my proceedings and my cause prejudiced to such an extent as to make several supplemental charges and communications to Session necessary (see pages 19 and 33); also, several personal remonstrances to our pastor; and, finally, to call forth my letter of December 17th, written the very day on which my charges were so unexpectedly and *unjudicially* dismissed by Session, even while I was hourly looking for their invitation (which I had often been led to expect) to appear and explain, prove and justify them. (See page 35.) While so waiting, I received the following minute and communication from the Stated Clerk of Session, viz.:

NEW YORK, December 18th, 1862.

"GEO. D. PHELPS, Esq.:

"DEAR SIR: I am authorized by the Session of the Madison Square Presbyterian Church, to communicate the following resolution to you, passed last evening:

"*Resolved*, That in view of all the circumstances of the case, and in the exercise of the discretion enjoined upon the Session by our Book of Discipline, it is inexpedient for the Session to entertain the charges and specifications of Mr. Phelps against Mr. Dodge, and that the same are hereby dismissed."

"Attest,

FREDERICK BULL, *Stated Clerk.*"

I would most gladly have been spared such reference to, and comments upon, the proceedings recorded in the foregoing minute, as self-vindication has required of me; and I beg that it will be distinctly understood, and kept constantly in mind, that my complaints are against *official* acts, and my comments must not be construed to imply any disrespect for, or unkind feelings toward, a large majority of the members of Session. I believe they have been much beset with the same embarrassments so constantly experienced by me, and that their judgments and actions have been much swayed thereby, imperceptibly and involuntarily, I doubt not, but greatly to the injury of my cause. With these cautionary remarks, I proceed to state, in the TENTH place, that the said decision or dismissal of my charges is pronounced by the most competent ecclesiastical jurists, to be wholly irregular, unjust, unsanctioned by precedent either in civil or ecclesiastical judicatories, and in direct violation of the injunctions of our Book of Discipline, which nowhere author-

izes either an unlimited or unqualified exercise of discretion in *any* case. See reasons and authorities noted in my appeal and complaint, pages 39 and 44.

Chap. I, Sec. 2d, of our Book of Discipline names, as among the "ends" of discipline "*the removal of offences*" and "*also the benefit of the offender himself*;" and Sec. 3d declares, "*An offence is anything in the principles or practice of a church member, which is contrary to the word of God; or which, if it be not in its own nature sinful, may tempt others to sin, or mar their spiritual edification.*"

A reference to my complaints against Mr. Dodge at page 15, and to the specifications of the same at page 23, will show whether they come within the foregoing definition in our Book.

Chap. III, in defining "*public offences*," most aptly describes the case now under consideration—which is certainly sufficiently "*notorious and scandalous*," and in removing which, as will be seen, all "*private steps have been ineffectual, and there is obviously no way of removing the offence, but by a judicial process.*" It will hardly be claimed that the action of Session, in dismissing my charges, was based upon the considerations named in the 3d Sec. of this Chapter; certainly not for the want of "*sufficient proof*"—of which there was an abundance in possession of Session and tendered by me.

Chap. IV, Sec. 1st, of our Book, enjoins that "*when all other means of removing an offence have failed, the judicatory to which cognizance of it properly belongs, SHALL JUDICIAALLY take it into consideration.*" Sec. 4th of same Chapter cites all the cases in which Session may exercise discretion. Sec. 15th declares that "*the trial shall be fair and impartial. The witnesses shall be examined,*" &c. Sec. 16th, "*the judgment shall be regularly entered;*" and Sec. 23d enjoins that "*in recording the proceedings in cases of judicial process, the reasons for all decisions, except on questions of order, shall be recorded at length,*" &c. It will be seen that Session openly and inexcusably violated every one of these laws. Although they say in a supplemental minute, adopted January 29th, 1863, "*The Session have carefully considered the whole subject during a period of several months,*" they claim that they did not "*judicially take it into consideration,*" and on this plea, as will soon be seen, Presbytery very strangely dismissed the appeal. The "*trial was not fair and impartial,*" neither myself nor any witnesses being permitted to explain or testify before them. No "*judgment*" was "*regularly entered,*" and no "*reasons for their decision*" were "*recorded at length.*" They do not even pretend that either of the reasons enumerated in Sec. 4th (the only ones which authorize the exercise of discretion) would apply to me. Indeed, as will be seen (page 38) in their subsequent Minutes, they say that my charges were "*submitted in due form,*" and they voluntarily indorse "*their continued confidence in my Christian character.*" See also still later minutes at pages 53 and 54.

How then shall we account for such a record?

Some—and among them a learned member of Presbytery—have attempted to justify Session in their unqualified "*exercise of discretion,*" by a reference to the prerogatives and usages of the grand jury. Let us consider the analogy.

At the commencement of each Session, every grand juror takes the solemn oath \* \* "*you shall present no one from envy, hatred, or malice; nor shall you leave any one unpresented through fear, favor, affection or hope*



*of reward*; but you shall present all things truly as they come to your knowledge," &c. Members of Session acted under no such oath, nor, as appears from their records, under any especial solemnities.

No grand jury could conscientiously, or would presume to dismiss a case until all testimony offered had been examined. *Our Session declined to hear any witnesses or any explanations.*

Grand jurors alternate; and a case dismissed at one session may be re-presented the next month, before another set of men; or may, in a different form, be brought before other courts. Our Session is a perpetual body, and no such remedy exists for renewing or transferring a complaint. If, as Presbytery have decided, there is no appeal or complaint to a higher court, then Session may become an odious Oligarchy or a dreaded Star Chamber Court. See page 47.

Besides the reasons already assigned, the circumstances justify me in stating that two near relatives of the accused are deacons in the church; and what I will undertake to prove by members of Session themselves, that the intimation was openly expressed in Session, that if this case was pressed to an issue, the accused and his numerous relatives (some five or six families) would leave the church.

I do not believe such results would have followed. But grant all that was thus intimated, *can only poor and friendless men and small crimes* be prosecuted to an issue in the Session of our church? Must every remote contingency be so carefully considered before judicial action can be had?

It will be recollected that it was subsequently declared in Presbytery, by a member of Session—there as a commissioner—speaking in behalf of himself and others, or another, that if they had supposed that Presbytery would have taken such action upon my appeal, *they* might have voted differently. Indeed, I was assured by several, before the meeting of Presbytery, that when the case came back it should have a fair trial; from which, and other similar remarks made to me, I inferred that several of the Session only needed, in some way, to be relieved from the embarrassments above named. I know that this was a delicate case—very trying to the sympathies of some members of Session; but as I had resorted to every possible means to avoid it, and had conformed to every prerequisite on my part, how could they so far forget their solemn pledges, and the positive injunctions of our Book of Discipline as herein before quoted!

This brings us to the consideration, in the ELEVENTH place, of the supplemental action of Session, recorded in their minutes of 22d and 26th December (page 38), in reference to which I beg particular attention to the objections and expositions of them in complaint to Presbytery (page 41), and will further remark that this action is claimed to have been adopted by "*my friends*" in the Session, and after knowing my opinion of their action in dismissing my charges without any reasons assigned; and after knowing also the purport and reasons for my appeal and complaint to Presbytery, on account of that action. Cheerfully conceding their friendly motives, I must still be excused for protesting against the grave errors and evil tendencies of those proceedings, for the following reasons, in addition to those named in my complaint, pages 41, 56 and 57:

1st. The modification by interpolation or otherwise of the minutes or records of any judicatory (and especially of an ecclesiastical court), *five or nine* days after their decision has been solemnly made, recorded, approved and formally served upon the parties interested, can hardly be regarded as an excusable act, especially on the part of an intelligent Moderator, who has been honored with the high office of Moderator of the General Assembly of the Presbyterian Church.

If Session had the right to reopen this case *once*, five days after a final disposition of it, they have an equal right to reopen it again, in five months or in five years: and if they had the right to interpolate *one* paragraph, and thus to connect and add a long minute qualifying a decision nine days after its adoption, the same authority would allow them to add *anything* and at *any time*. But they have no such rights, nor any precedent in any civil or ecclesiastical judicatory. Such proceedings would prove an utter bar to all equity or justice in any court, and, if tolerated, would destroy all respect for all judicial bodies, 1st, because no such proceedings could be regarded as final; and 2d, because a *part* of any such court might, at a subsequent session, explain away or nullify what had been done by a unanimous vote at a preceding meeting.

2d. The inaccuracy of their first statement—viz., “*The Session have carefully considered the whole subject, during a period of several months—*” is fully proved by the several misstatements immediately following. See pages 41 and 56. While that statement seems to show that “*they did judicially take the case into consideration,*” it is clear that no “*careful consideration*” could have been given to it. A careful consideration of the papers before them, or a few minutes’ consultation with me, would have saved them from those and several other grave mistakes.

Their statements concerning the “origin” of the difficulty, “the effort and failure of an adjustment before the Board of Managers,” the “appeal to the public through the press” (so far as Mr. Dodge is *individually* concerned), and several other matters implied, are all incorrect and injurious to me as any one disposed may readily ascertain by the documentary evidence heretofore named, and still in possession of Session.

Equally unfair are the references to the “nature and long standing of the case,” especially so soon after they had devoted more than a year to “the trial upon its merits” and “to a final issue” of a case which is open to more than all the objections intimated concerning this (except the social position of the accused), and in which there was no responsible accuser, but which *was voluntarily* taken up upon the complaint of “common fame.” Besides, my complaints against Mr. D. were kept constantly fresh by the continued efforts on my part to adjust them, and on his to aggravate them; and *new* charges and specifications were presented, even up to the very day before their final decision, dismissing the case. See pages 16, 32 and 33.

And 3dly, in quoting from Book of Discipline, Chap. i. Sec. 2d, as “the ends of discipline” they wholly omit the two most important, viz.: “*the removal of offences,*” and “*the benefit of the offender himself,*” both of which would undoubtedly have been promoted by the prosecution of my complaint to an issue.

4thly, The closing sentence of this supplemental minute is no less remark-

able than the others, for it expresses a "hope that under *proper influences*, with the Divine blessing," we "may yet see eye to eye," etc. Do the Session mean to acknowledge that they have not exercised the "*proper influences*," and have not sought "the Divine blessing"?


It is proper to add that since the dismissal of the case in Presbytery and my notice of appeal to Synod was known to Session, I have received from their Stated Clerk (on the 7th February) copies of *amended* supplemental minutes, adopted by Session on 29th January, *forty-three days* after my complaint was dismissed, and *twenty-seven days* after their last recorded action, in which two of the grave errors complained of in their former record are now omitted; but other implied misstatements are introduced and remain, quite as inexcusable and unjust to me. But as a dozen more supplemental minutes, or amendments of such, may be adopted by Session, *during the next twelve months*, with the same right and propriety, it seems hardly worth while to notice these any further, till all are received. None of them are *properly* or excusably upon their records; and while there, like other inaccuracies herein pointed out, they are a standing evidence of carelessness or wrong, and a monument of injustice, for the criticism of future generations; and in justice to Session as well as to me, they *should all* be expunged from their books. See pages 41, 56 and 57.

Still later action has been taken in Session upon my request for copies of certain proceedings which were refused me, a statement of which may be seen, commencing at page 51.

Many interesting questions and comments are suggested by the foregoing statements of facts, but it is not my present purpose to do more than to vindicate myself. I have carefully avoided all allusion to motives of which I cannot be the judge—any further than they are clearly developed in action. I prefer still to regard the majority of Session as rightly disposed. I believe, if they had been left to the free and unprejudiced exercise of their own judgments, all my difficulties would long since have been pleasantly adjusted; and therefore I freely forgive *them* all the wrong which seems to have been done to me in their Board.

Having thus shown you how I was denied all redress for my grievances in Session, and how my charges and complaints were dismissed, without reasons assigned, in direct violation of the injunctions of our Book of Discipline, I will now show you how my "appeal and complaint" and my "supplemental complaint" (see pages 39 to 43) were still more summarily disposed of in Presbytery, and with apparently much less regard to justice, propriety, and precedent; and in still more open violation of our ecclesiastical laws.

This is a still more painful exposition than the foregoing, in so far as the authors of the conduct criticized are more venerable and distinguished; and for that very reason, and just to that extent, is my duty the more imperative. The same acts done by less intelligent and more obscure men would have been less injurious, and therefore might have passed unnoticed. I think the sequel will fully justify me in this matter, in the minds of all candid men.

 The constitution and laws of our church, as set forth in our Book of Dis-

cipline, declare, in reference to its system of appellate jurisdiction, as follows: "*To prevent the continued existence of wrong done from ignorance, prejudice, malice, or other causes, is one great design of superior judicatories*" (see introduction to chap. vii); and the following paragraph declares "*that every kind of decision which is formed in any church judicatory, except the highest, is subject to the review of a superior judicatory,*" &c.; and sec. iii, § 1st, states, "*An appeal is, the removal of a cause already decided (determined, ended, concluded) from an inferior to a superior judicatory by a party aggrieved.*" § 2d, "*All persons who have submitted to a regular trial in an inferior, may appeal to a higher judicatory;*" and the following paragraph (3d), "*any irregularity, a refusal of reasonable indulgence, declining to receive important testimony, manifestation of prejudice in the case, mistake or injustice in the decision, are all proper grounds of appeal.*" And in regard to complaints, sec. iv, § 1st, declares that "*another method, by which a cause which has been decided (that is, ended, determined, concluded) by an inferior judicatory, may be carried before a superior, is by complaint.*" And the next paragraph says, "*a complaint is a representation made to a superior by any member or members of a minority of an inferior judicatory, or by any other person or persons, respecting a decision (determination, final end, &c.), by an inferior judicatory, which in the opinion of the complainant has been irregularly or unjustly made;*" and § v, "*this complaint brings the whole proceedings in the case under the review of the superior judicatory,*" &c.

Upon the authorities above quoted, and under advice of the wisest and most experienced of our fathers in the church, I submitted to the Fourth Presbytery of New York my "appeal and complaint," and my supplemental and independent complaint, against the afore-mentioned proceedings of the Session of the Madison Square Presbyterian Church, which please see at pages 39 and 41; then turn to the minutes of the extraordinary proceedings of Presbytery at page 42, and read from the report of their judicial committee: "*As there has been no trial on the merits of the case, no appellate jurisdiction can as yet be invoked. When a case is preferred to the court of first resort, said court is to consider whether it is proper to institute trial or to dismiss it,*" &c., which, if correctly understood, dismissed my appeal and complaint, *without a hearing*, simply because my charges were so dismissed in the court below, thus suggesting the strongest possible motives to evade and defeat judicial action in "a court of first resort." Then please refer to my notice of intention to appeal from and complain to Synod of that *curious* decision, with the reasons therefor (pages 44 to 47); after carefully considering which, I beg your attention to the following particulars in regard to the proceedings of said Presbytery:

FIRST. The important and inexcusable omissions and other inaccuracies of their minutes, as set forth in my notice of complaint to Synod and in my exceptions made to their Stated Clerk, some four or five of which, as I am informed, have been corrected since my notice of appeal to Synod was in their possession.

SECOND. The *apparent* fact noticed by several present, in reference to some of them, that everything in regard to their action had been agreed upon and matured, and the whole cause prejudged and decided beforehand. Witness 1st, the motion by the Stated Clerk for adopting the "General Rules

&c., "*for this session*," for the purpose, as stated by the mover, to avail of the use of the 40th, which provides for a judicial committee; 2dly, the peculiar construction of that committee in reference to the relationships and affinities of some of them to the several defendants in the case; which it might appear invidious to specify,—but which must have been known to many present—as such as would have been exceedingly embarrassing to a conscientious or sensitive jurymen in a civil court.

THIRD. The action and report of said committee, 1st in this, that while the 40th "General Rule" under which they were appointed, and from which they derived *all* their authority, defines and limits their duties to be "*to digest and arrange all the papers, and to prescribe, under the direction of the judicatory, the whole order of the proceedings*," they not only did not "digest and arrange the papers," but in violation of all rules and precedents, they most sadly disarranged everything appertaining to the equity and justice of the case. None of the charges or documents submitted to Session by me, were laid before Presbytery or their judicial committee. 2d. In their assumption, wholly unsanctioned by ecclesiastical law or precedent, or even by any authorized use of words; viz., that the word "decision" is identical with, or implies *only*, the "result of a trial of a cause upon its merits;" when in the case before them, the Session themselves, the authors of the act complained of, in their minutes, twice call their action, dismissing the case, a "decision;" and when the settlement of appeals from the chair on points of order, and other similar uses of the word are nine times "identified" with the term "decision" (or decide) in the General Rules, under which the Committee had their existence: see the 9th Rule, in which, even the determinations of questions of order are especially declared to be "decisions" and subject to appeal, &c.

FOURTH. The extraordinary action of the majority of Presbytery, in not only denying me all right of objecting to the strange proceedings in organizing and appointing the committee as above stated, but even the liberty of speech also, till all matters were virtually settled. See Minutes of Presbytery, page 43, which but very imperfectly convey an impression of the persistent opposition which was made to my being heard at all. I forbear to state those proceedings, as carefully noted at the time, except as follows:

"After several other efforts to speak and protest, which were opposed by ——— and ———, I objected to the minutes of Session being read *from the book into which they had recently been copied*, for the reason that they had not been approved in *that* book, and that 'the interpolated minutes' complained of, only appeared *in their pencil interlineations in the original book*," which I finally succeeded in obtaining and showing to the Presbytery, but was not permitted to examine the Stated Clerk concerning the said minutes, although I had called him there as a witness for that purpose.

FIFTH. The inexcusable fact that while my appeal and complaints were in reference to a large number of distinctly specified irregularities, and other important matters (besides the final decision of Session), such as "*partiality*," "*erroneous minutes*," "*interpolation of their records*," &c. (see pages 39 and 41), none of which were excluded, or at all affected by the frivolous objections raised by the committee, still the whole were ignored, utterly disregarded, and peremptorily shut out from all consideration by the action of

both the committee and the majority of Presbytery, as is more fully stated in notice of appeal to Synod, page 44.

SIXTH. The previous question being moved and carried, all further debate was cut off, and the vote (upon a count being called) showed that seven, (five of the committee, and Mr. W., a nephew of Mr. Dodge, and one other, a ministerial friend of Dr. A.) voted for the adoption of the report, and three against it—less than half of the whole number as announced by the minutes as present, voted at all, and but one third of the whole number voted for adopting the report of the committee.

The Presbytery solemnly adjourned with prayer, and most of those present left; *after which it is said* that their minutes were approved; and I received the certified copy as printed at page 42.

Thus I was a second time refused that impartiality and justice so fully enjoined in our Book of Discipline, and in THE BOOK also: and thus my difficulties with Mr. Dodge now stand.

And now what further shall be done? As stated in the preface, I have carefully sought counsel, and have been favored with all kinds of advice and suggestions.

"*Forgive HIM, forgive them ALL,*" say Mr. D.'s friends, and some few others. But, shall I do so before I am asked? While the parties still persist in their wrongs? I find no such instructions in "THE BOOK." Our blessed Saviour taught (Luke xvii, 3, 4), "*If thy brother trespass against thee, rebuke him, AND IF HE REPENT, forgive him,*" &c., and although He gave His life to save those who have sinned against Him, yet he *nowhere* offers forgiveness without confession and repentance. Adopting the style of reasoning of our Reverend Judicial Committee, it may be added:

1. Forgiveness "presupposes" sorrow and confession for a wrong committed "with a result—which result is identified with the" repentance, upon which alone the forgiveness of transgressions "is recognized in our Book."—Luke xvii, 3 and 4.

2. "As there has been" no sorrow or repentance manifested in the case, no forgiveness "can as yet be invoked."

"*Appeal and complain to Synod,*" say most of my ministerial friends and counsellors. Acting under that advice, I promptly gave the required notice of intention to so appeal and complain (see page 44). But

"*State the facts, submit them to those interested, and rest where you are; your cause is abundantly vindicated and your opponent is sufficiently condemned,*" say others; and for the following reasons I had fully decided upon this latter suggestion:

FIRST. For three years Mr. Dodge has had my standing offer, often specifically repeated, for a settlement of all our difficulties upon Christian principles. Once, he contumaciously rejected all advances of a Committee of three of the Session, appointed *with power* to settle these difficulties in the same way (pages 39 and 54). Once, without cause or excuse, he repudiated a written agreement for such a settlement, signed by both parties and witnessed,—and—erased his name therefrom, without my knowledge or consent (see pages 47 to 49). And twice, he and his friends have dodged and evaded a trial of my charges against him upon their merits, through the interposition

of frivolous objections based upon inexcusable technicalities and quibbles upon the meaning of words; and if he is willing to remain in his present position, with my charges and proofs, including his qualified confession of them, still in the hands of Session and now made known to you all, cannot I rest? Am I not sufficiently vindicated by his so persistent refusal to meet the case upon its merits? Upon that point my friends say I should be satisfied. They desire nothing better for me, an enemy could wish no worse for him. Whenever he desires forgiveness upon the terms enjoined in the Bible, he shall have it even to *seventy times seven*. Until then I must submit to the injunctions of our Saviour as indicated in the concluding paragraph of our text.

SECONDLY. To prosecute my appeal and complaint in Synod, would, first, involve a tedious delay till October next, during which time my own death or the death of one or two important witnesses would terminate the case, and leave my cause undecided, and my memory to suffer undeserved reproach; or, sickness or absence of the same parties, or various other contingencies, might postpone it a year longer, or indefinitely; and,

THIRD, if none of these events should occur, the action in Synod might, and probably would be to refer the case back to Presbytery, who, by the same means before resorted to, might—I don't know what they *might not do*, and until their recent proceedings are reviewed and corrected, no respect for their decisions "can be invoked" (see foot note, page 43), and I see not why I should again, voluntarily, expose myself to such action.

"But," say the friends of the church, and the advocates of a pure administration of her laws, "The judicatories of the church must be vindicated." Very true, but am I, who have twice been denied all justice in the church's judicatories, under further obligations of that kind?

While I feel confident, upon the assurance of those best competent to advise, that all these gross errors of both Session and Presbytery would be corrected in Synod, yet I cannot see that it is *my* especial duty to protect or to deliver its judicatories from reproach. Having sufficiently vindicated my cause, a further prosecution of the subject by me, might seem to justify one of Mr. Dodge's calumnies.

There are those whose official relations enjoin upon them duties in that matter which do not rest upon me; and who also possess more power, and better means and opportunities than I enjoy for such purposes. To them I prefer to consign that duty; and having thus laid before you my "explanation and appeal," unless overruled by the judgment and persuasions of others, I will rest my cause until we all appear before that dread tribunal where considerations of wealth and social influences will have no weight, where the plea of "expediency" cannot be made; and whose decision upon the great questions at issue has already been rendered in the verdict," *He that justifieth the wicked, and he that condemneth the just, even they both are abomination to the Lord.*"—Prov. xviii, 15.

Although much has been omitted for want of space, the matter has been fairly stated, and with sufficient fulness, as previous to some action on the part of Synod to correct the errors herein exposed.

And now, what are to be the results of these sad developments, and where shall further responsibilities rest?

In my honest efforts to oppose "*extra official acts*," and to resist wrong deeds, I brought upon myself the injurious attacks as herein stated; and in seeking a deliverance from those, I have incurred the other evils herein exposed, in all which matters I believe I have done my whole duty—no more than the occasion called for, and I see not how I could have done less; but who, with such consequences in prospect, will hereafter either care or dare to thus expose themselves for the correction of wrong or the defence of the right?

I hold myself responsible for the truth of every statement herein made. With these facts before you, *you* are now responsible before God for your judgments and actions in the premises.

I know I am exposing myself to the disapprobation of those whose acts are herein criticized, but I believe I shall not be censured by good men, nor my statements controverted in any way by any responsible party; but I shall doubtless be subject, as heretofore, to disingenuous and unjust appeals to your sympathies and judgments, based upon a misconstruction of the facts; and perhaps I shall suffer from an occasional half-concealed attack upon my motives and acts by some, under circumstances which preclude all response. "But none of these things move me." Conscious of the rectitude of my course, and trusting in the justice of my cause, I will again bear in silence till my day of delivery from all misrepresentation and wrong.

As for my calumniator, he will not suffer in his own esteem, nor much in the estimation of his friends. He has but to continue his public benevolent demonstrations which have so greatly increased since my complaints against him were first made public, and he will soon be set right again in this community; such is our present public sentiment, unwittingly created and fostered by our good men, in ways similar to those herein developed.

So far as I am *individually* concerned, I trust this matter is now dismissed. But are there not further duties for some one to perform?

Have not the church and this moral community great interest in the facts, principles, and practices herein discussed and exposed?

Is it "*expedient*" or safe in this time of general demoralization among those in positions of wealth and influence, for our preachers and teachers, and our administrators of ecclesiastical law, by their examples and their solemn official acts, to give countenance and support to an unlimited "*exercise of discretion*" and the practice of an uncontrolled "*expediency*" in the discharge of high official duties?

Are such proceedings in harmony with the large expenditures now being made to teach sound morality and inculcate the Divine precepts of our blessed Saviour in our theological institutions, and from our liberally supported pulpits?

Now in this time of our country's imminent peril—when our Government is suffering so intensely from such constant developments of moral and pecuniary defalcations in all its departments—when the true-hearted but poor patriot is rudely jostled aside by those who have gloated and fattened upon the ill-gotten gains of extortion and defalcations in their contracts for the supply of our armies and navy—when men, hitherto occupying high positions



in church and state, are so overcome by the love of money, and the distinctions and immunities which it bestows in this community, is it wise to excuse and foster the sentiment that "money is king, and the king can do no wrong?" Is it not rather the duty and the time to exercise and advocate that stern morality, both preached and practised by our forefathers in our first great struggle for national honor and independence; when men's positions in either the state, army, or the church, were never secured wholly through pecuniary influence?

These considerations have become quite too serious to be lightly disposed of. It is matter of grave doubt in the minds of many good men, whether the present immense expenditure of money and labor, in the distribution of Bibles and good books, and for the teaching and preaching of truth and righteousness in other ways, is blessed with a corresponding improvement in morals; and the inquiry naturally arises, Why?—Is it because of the opposing influences of the bad examples and inexcusable acts of good men, as herein explained?

When those in high places in the church and society forget their responsibilities, and sacrifice their Christian honor to worldly purposes or practices, how can it be expected to stay the tide of demoralization in the masses?

With these suggestions and inquiries for those in any way concerned—or those whose duty it is to watch over and correct the morals of this community—and with the following quotations from a discussion and exposure of somewhat similar transactions some four years since, I will close this appeal, and submit my case.

"Without any reference at this time to the cause or remedy of an increase of corruption in our Judiciary, our Legislatures, and our Municipal Governments, of which so much has been said and written, it may safely be asserted that the great and principal cause of the dreadful and increasing prevalence of the defalcations and mal-administrations in our railroad and other corporate institutions, is to be found in the growing disposition to overlook and conceal or excuse all such trespasses." \* \* \*

"For many months past our conservative journals have given us but too frequent reports of the painful exposures thus made in our midst; yet few seem to realize the magnitude of the evil, or the extent to which it has penetrated the more wealthy and nominally respectable portions of society; and fewer still have the independency of position, or the moral courage to express their views freely, or to make any personal application of the evils and dishonesty thus exposed." \* \* \*

"More than this, however, is necessary to a remedy of the great evils referred to. Good men's minds have become contaminated. They have by habit and familiarity begun to regard with complacency what they would formerly, and ought now, to abhor. They must be brought back to right feelings and accurate perception; and this can only be done by a severe discipline. Things must be called by their right names wherever found, and corruption must be rebuked by whomsoever practised, and its apologists discountenanced." \* \* \*

"Wealth, social position, and great and ostentatious benevolence must no longer blind our eyes to the existence of such palpable wrongs, nor furnish so ready an excuse and so complete an immunity to the commission of crime."

Since the exposures above referred to were made, a very decided improvement in the particular matters therein alluded to, has been experienced; that the same or greater good results will follow these, is the earnest prayer of

Yours, very respectfully

GEO. D. PHELPS.

May, 1863.

*CHARGES AND OTHER DOCUMENTS REFERRED TO.*

Your attention is now respectfully asked to the following charges and complaints against Mr. Dodge, with the accompanying correspondence with him, and other communications laid before Session; copies of all of which are now in my possession, attested by the certificates of the Stated Clerk.

FREDERICK BULL, Esq.,

NEW YORK, April 21st, 1862.

*Clerk of Session of Madison Square Presbyterian Church:*

MY DEAR SIR: I herewith hand you sundry documents addressed to your Session, and which I request may not be opened, until presented to the Session at a regular meeting of the same;\* and I desire that the same may be presented and acted upon at the first convenient opportunity.

Very respectfully yours, &c.,

[Signed]

GEO. D. PHELPS.

*To the Session (The Pastor and Elders) of the Madison Square Presbyterian Church:*

BRETHREN: Under date of April 17th, 1860, I submitted to you the copies of a correspondence between Mr. Wm. E. Dodge and myself, referring to some of my complaints against him, to which I asked your attention, and concerning which I made certain requests.†

Those documents were returned to me by your Clerk, with a communication dated the 24th following, and with the explanation that "it is not in accordance with the spirit of the Book of Discipline, that the Church Session should be the depository of matters in controversy between brethren, which are not presented to them for their action;" and closing with the remark that "consequently it was not necessary for that purpose that the Session should read the correspondence."

I had hoped that the presentment of the case thus made by me, would lead to some informal action, which would change Mr. Dodge's known purpose to join our communion, and thus save me the necessity of any further action in the premises; but his persistence in coming into the Church, taken in connection with the time and manner of his doing so, has imposed upon me the necessity of more formally laying before you my complaints against him.

My own ill health since this event, and the well known occupation of the time of the Session with other absorbing duties, has delayed this action hitherto. But having

\* I had thus early received such intimation of opposition and other indications of hostility to my contemplated proceedings from one party, that I felt it necessary to keep my charges under seal until Session were met, and ready to act upon them; but my precautions did not much avail.

† This refers to the correspondence of March, 1860, which see in the following pages, 21 to 30.

suffered much and long, and being still subjected to much wrong from the injurious and unchristian acts of Mr. Dodge, and he having persistently rejected all the usual means of reconciliation in such cases provided, I am driven to seek relief through you. My duty to myself, my duty to my family, and my duty to the Church, all demand this action at my hands.

I therefore now present the following complaint or charges against Mr. Wm. E. Dodge, upon which I ask your official action:

I charge Mr. Dodge with Falsehood, Conspiracy, Slander or Defamation, and Hypocrisy or Disingenuousness—especially as practised toward me, and greatly to my reproach and injury; and generally against the peace, honor, and prosperity of the Church at large.

FIRST. For the convenience of the Session and other reasons, I will now limit my charges of falsehood and defamation against Mr. Dodge, to the ten particular specifications as shown in the same number of extracts or quotations from a certain written document over his own signature, and as more particularly set forth in the accompanying document or exhibit marked "A,"\* which is the copy of a paper prepared in 1860 for other use, and which is now submitted herewith, as part of this communication and complaint.

The said extracts or quotations in red ink,† are from a certain written document dated the 23d day of March, 1857, signed by the said Wm. E. Dodge and others, and submitted by him and them to a number of gentlemen acting as a committee appointed to investigate and report upon certain imputations of official malfeasance made by me against some of the said parties.

And I charge that the said Wm. E. Dodge did falsely, slanderously, and injuriously apply to me the said defamatory epithets and dishonorable imputations, with the design, as I truly believe, and as is plainly shown in the said document itself, to destroy my reputation and ruin my character in the estimation of those to whom the said communication was presented, and thereby to frustrate and defeat the faithful and honest discharge of the duties of the said investigating committee; and that such results did actually occur, very much to my disparagement and injury; and further, in consequence of the religious profession and general reputable character of the said Dodge, and through his influence or example, several other parties, who knew nothing of the merits of the malicious charges so made against me, and who, from the existing circumstances, could not possibly know anything of them, were induced to sign the said documents, and thereby to add weight to the said false and malicious accusations, and to increase the evil designed against me.

I further declare that the said imputations and charges made against me ‡ by the said Dodge, and as shown in the accompanying document "A," in red ink, are *all false*, defamatory, and malicious; and that the most, if not all of them, must have been known to be so by the said Dodge, when he signed and used the said document as aforesaid, and especially that one in regard to a quarrel with himself, the falsity of which was then a matter of legal record.§

I still further declare that when the said false and injurious report of the said investigating committee, based upon the said false accusations of the said Dodge and others, was presented to a very large meeting of citizens, called by Mr. Dodge and

\* For these specifications, see the following letter to Mr. Dodge (page 28), where they are all quoted and explained as in exhibit "A," which, to save repetition, is omitted in this publication.

† Now printed in italics, in the following letter.

‡ Now shown in the following correspondence, in italics.

§ See a full exposé and refutation of all these calumnies in "Railroad Mismanagement," pages 20 to 30 of that pamphlet.

his associates, Mr. Dodge was present, and voted for or consented to its adoption, and also for the resolution that it should be printed and published; that he was a member of the Board of Managers to whom it was referred for publication and distribution; that he assisted or connived at that libellous transaction; and that when appealed to, to suppress the said report, by certain parties who foresaw and stated that a bitter controversy must necessarily follow the said publication, and who promised on my behalf that the said suppression should end the said controversy, Mr. Dodge did not use his influence, as earnestly requested, to suppress the publication and distribution of said report, and thus put an end to all difficulty between me and Mr. Dodge and his associates; but the same was printed and extensively circulated by Mr. Dodge and his associates, greatly to my injury, and to the mortification of many good men, both his friends and mine.

In proof of the foregoing charges, I propose to offer the testimony of ———, \* with such others as may be called for or needed in the progress of the trial, and also as submitted herewith the copies of correspondence with Wm. E. Dodge and ———, marked "B," and "C,"† respectively, also two printed pamphlets marked "D"‡ and "E."§

And I shall also submit such other printed documents and original letters and writings as may be required to illustrate and establish my charges against the said Wm. E. Dodge.

SECONDLY, I charge the said Wm. E. Dodge with Hypocrisy, or Dissimulation, in this—that when I was earnestly striving by correspondence and otherwise for a reconciliation with him, while virtually he confessed the authorship and application to me of the injurious imputations contained in the extracts herein referred to,‡ he persistently declined to make any proper acknowledgment of, or apology for the same; and most uncandidly, guarded and qualified his language with "ifs," and other hypothetical expressions, to such an extent as to nullify all his professions of kind feelings; and that while ostentatiously proffering his forgiveness to me of injuries which I had never inflicted upon him, and of which he had made no specification or complaint, he still persistently refused to submit all matters of difference between us to the arbitration of mutual Christian friends, as repeatedly proposed by me, upon the frivolous and disingenuous plea, that the state of his health and other engagements would not permit; his health at the same time being as good as usual, and as was well known, he was then devoting much time to attending and presiding at political, temperance, and religious public meetings, both here and in Philadelphia. §

In proof of these latter charges, I submit the correspondence before referred to (Document "B"), and shall offer the testimony of ———. ||

As before remarked, the several documents herewith submitted and marked "A," "B," "C," "D," and "E," are all offered as necessary illustrations and proofs of my complaints, and "A" and "B" are especially to be regarded as a part of this communication.

The originals of all letters and other documents will be produced when called for; and at the proper time I shall also make such further explanations of the injuries I have sustained and am still suffering from the wrongful acts of Mr. Dodge, as the circumstances may permit or demand.

\* For obvious reasons, the names of all the witnesses, amounting altogether to seventeen, are now omitted.

† Omitted in this publication as unnecessary in *this* case. "E" is the pamphlet "Railroad Mismanagement," &c., which can be had by any who are curious in such matters.

‡ See his letter, in the following correspondence.

§ See the following correspondence with him.

|| Names omitted for reasons before stated.

I much regret that my well-meant efforts and the kind intervention of friends for a reconciliation with Mr. Dodge, have failed of their purpose, and that the painful duty of preferring the foregoing charges against him is imposed upon me, and that the labor and unwelcome obligation of investigating them will now devolve upon you.

It only remains for me to request that you will give to the investigation the earliest attention that your other official duties will permit.

Awaiting your official action, and your notice or request for my attendance,

I remain very truly yours, &c.,

GEO. D. PHELPS.

NEW YORK, April 21st, 1862.

NEW YORK, May 7th, 1862.

*To the Session of the Madison Square Presbyterian Church:*

DEAR BRETHREN: Being unacquainted with the prescribed rules in such cases provided—when I submitted to you my complaint against Mr. Wm. E. Dodge, I took the liberty, in the accompanying note of April 22d, to intimate the desire, that if any informality, irregularity, or omission should be found in my proceedings, that I might be informed, and have the opportunity to make a prompt correction.

I did not suppose, of course, that any opinion could be formed upon those points until my communication should have been formally received and read; and the precise nature of my charges, as presented, should be known.

But as questions were suggested to me yesterday by our pastor (your Moderator) whether my complaints were not barred by the statute of limitations, and whether I had adopted all the prescribed preliminary steps, &c.,\* I have been led to examine more thoroughly the rules governing the case, and I am satisfied that when the proper opportunity is given me, I shall be fully prepared to justify my course upon this, as well as upon all other points to be raised in course of the investigation.

While such inquiries may, quite naturally, arise in the mind of any one, I shall presume that no member of the Session will entertain any such doubts, much less express them to my prejudice, until properly informed of the nature and extent of my charges,† which it is to be presumed no one of the Session at present knows; and which no one can fully understand and appreciate until the examination of some of the witnesses is had.

I avail myself of this opportunity to refer to an erroneous impression, which by some strange means seems to have obtained currency, viz., that the acts of Mr. Dodge, of which I complain, were provoked by previous unchristian acts on my part towards him;—such a conclusion would be utterly unsustained by facts;—is highly injurious to my cause;—and will of course not be entertained by any member of the Session until the facts shall be submitted to justify such opinion.

I shall be pleased if an early day can be fixed to commence the investigation of my complaints,—in the mean time it seems proper, and it is my desire that they shall remain under seal until the Session can formally receive them.

If not regarded as intrusive, I beg to call the attention of the Session to the Article IX of chapter iv of Book of Discipline, and remain,

Very respectfully, your Christian brother,

GEO. D. PHELPS.

\* These "suggestions" were made to me in a manner and form much more objectionable and embarrassing than is here indicated—and were the cause for submitting this and the following communications to Session; and the "questions" raised and "suggestions" made, were not, by any means, confined to me. The result—as manifested in the action of Session—will sufficiently indicate their extraordinary nature and persistency.

† In this, I was quite too confiding—and "presumed" too much. Although my charges were not formally received by Session until the 27th of May, one party at least seems to have known enough of their nature, to embarrass me very much by suggesting objections and arguments against them, in advance of their being presented.

1 NEW YORK, May 12th, 1862.

*To the Session of the Madison Square Presbyterian Church:*

DEAR BRETHREN: Referring to my charges against Mr. Dodge, and especially to my explanatory note of the 7th inst.,—it has since occurred to me that some more particular observations upon the objections suggested by Dr. Adams, noted therein, concerning the possible irregularity of my proceedings, might remove all doubts and facilitate your action. I therefore beg your attention to the following points, upon which I shall be prepared to offer further arguments when necessary.\*

FIRST. In regard to "preliminary steps;"—I suppose reference is had to Art. III of chapter ii, and my first remark is that the injunctions of our Saviour referred to therein (Matthew xviii, 15, 16), were uttered when and where very few could either read or write; all negotiations and transactions were then necessarily conducted in person, and were perpetuated by oral testimony. Hence the injunction to go personally and to "take one or two more" (brethren, or members of the church are *not* specified); why?—"that in the mouth of two or more witnesses, every word may be established." But since, in the providence of God, a better way has been provided by a correspondence in writing, securing at the same time a calmer discussion, and a more perfect establishment of every word uttered, surely it will not be claimed that the *letter* of the law is to govern in this case exclusively. I take it that it is the *spirit* of our Saviour's instructions which is to be our guide in this as in all other matters; or else we shall be somewhat embarrassed by the letter of the few verses following, as well as by some other texts familiar to you all.

To adhere to a *literal* construction in all cases might open up some grave questions in regard to the practice of our own and many other churches.

SECONDLY. I would observe that the matters complained of by me are not altogether of a "personal" character, but the peace, honor, and prosperity of the church are also deeply concerned; and the "offence" was very far from being "private." On the contrary, it seemed to be so public and "aggravated" from the very first, as to preclude all reasonable hope of any private reconciliation, and to place it entirely without the reach of the restriction referred to. Most of the falsehoods and calumnies were uttered in the presence of, and in connection with fifteen men, and were submitted in writing to at least five others, clearly with the design to ruin my character; and they immediately became public and notorious; but, THIRDLY, having had the formality of personal interviews with Mr. Dodge, and having in those interviews, in the kindest way and most formal manner—and in that way best calculated "to establish every word" between us—tried to bring about a reconciliation with him, until he peremptorily declined further negotiations (see copies of our correspondence, exhibit "B"),† I claim that even if the offence were "personal and private," I have conformed to all the preliminaries required by the true interpretation of the rule given by our Saviour on that point.

In regard to the objection of limitation of time, which I suppose is founded on Art. V, chap. xi, of the Book of Discipline, I would remark,

FIRST. My complaint is not simply of "Scandal," and if it were, it might be urged that the "crime" was, at first, and has always continued to be most "flagrant;" and, therefore, could not technically "recently become flagrant," but is now cruelly "flagrant;" and can never be expected to be less so, unless some suitable retraction of the calumnies is made, or some restitution and reconciliation otherwise effected.

SECONDLY. I observe that no earlier presentation of the case was practicable. So long as Mr. Dodge remained in his former church relations, there seemed to me to be insurmountable difficulties in the way of such action.

Constituted as the Session of that church then was, with Mr. Dodge, his brother-in-law, and his particular friend, C. R. Robert (believed to be the ruling spirit of the Session, if not of the church also, and at the same time the fellow-conspirator and coadjutor of Mr. D.) as its principal members, a fair trial before that judicatory could not have been hoped for by me.

\* No opportunity was ever offered me for further suggestions or arguments.

† Under date of March 9th, 1860; see following pages.

THIRDLY. The negotiations and efforts for a reconciliation were kept up by me until after my arrangements for my late journey to Europe were made, and until he peremptorily closed the correspondence, and then I left my long-pending proposal for a reference of our difficulties to Christian friends, still open to be accepted by him at any time.

Still more recent "preliminary steps" have been taken by me,\* but the result is not such as to require any change of proceedings on my part or yours, and the difficulties are now assuming such an aspect, as to justify me in urging your earliest possible investigation of the matters submitted to you by me.

His uniting himself with our church the first communion season after my return seemed to impose upon me the duty, and at the same time furnished me the opportunity to renew my efforts to bring Mr. Dodge to a just sense of the wrongs done to me and to the church of our common Saviour.

My sickness and your well-known pressing engagements have, since that event, delayed my proceedings; but as less than thirteen months have transpired since the termination of our (former) correspondence, in which he virtually acknowledged my complaints, surely under all these circumstances, and in view of the foregoing observations, neither Mr. Dodge, nor any friend in his behalf, will interpose any of the objections referred to.

Awaiting with much interest the commencement of your proceedings in this case,  
I remain

Your Christian brother,

GEO. D. PHELPS.

DOCUMENT A, being the specifications referred to in the foregoing charges, is omitted here—the same being recapitulated in the first of the following letters.

DOCUMENT B, being the correspondence with Mr. Dodge first submitted to Session in April, 1860, before Mr. D. joined our church, and again in April, 1862, with, and as a part of the foregoing charges and complaints. From the introduction it will be seen that it had been previously shown to a few Christian friends, with the following introductory remarks:

"In submitting the following correspondence for the perusal of a few Christian friends, it is proper to state that it originated in the earnest desire and best intentions of a much-esteemed mutual friend, for the proper adjustment of the unhappy differences too long existing between the parties.†

"Its failure at the moment when a settlement seemed easy and certain, is much to be regretted. The *persistent insertion* of a very few little words into the programme of Mr. D.'s third letter, defeated the measure, and has unfortunately left us in a worse position than before.

\* The correspondence which was commenced May 9th, 1862. See page (81) following.

† This correspondence occurred after Mr. Dodge had taken a pew in our church, but several months before he presented his letter of admission; and it had its origin in the earnest desire of our *then* mutual friend, to settle our differences before he should join our communion. The first letter is almost verbatim the language of our friend, as the original draft now in my possession shows; for all the others over my name, I assume the responsibility. The same *friend* also undertook to secure to me a suitable reply, which undertaking, after three fruitless efforts, he abruptly abandoned (see foot-notes further on); thus (unintentionally of course) leaving me in a worse position than before; and here commenced that alienation and those embarrassments to which I have before referred. Because I would not accept, as *satisfactory*, from Mr. Dodge, what he, at first, and all my other friends afterwards acknowledged to be insufficient, he *seemed* to be highly displeased, and from that time declined to act as mediator, declaring in a note, under date April 10, 1860, that his "responsibility in relation to the matter ceased some time ago," &c., as will appear further on.

"It should be observed that the whole difficulty, as it now exists, has grown out of the misrepresentations and exaggerations of my mild and qualified imputations against the *illegal official* acts only, of certain parties specified, and the unnatural conspiracy or combination of those imputed parties, with a number of others *unaccused*; and the strange proceedings of the Committee appointed to investigate the said imputations. If my complaints had been fairly or calmly considered, either by the stockholders to whom they were first made, or by the Investigating Committee to whom they were referred, the whole matter would have been promptly settled, and without any acrimony or recriminations; or, if the usual civilities had been extended to me by the Committee, or by the imputed parties when their report was presented, nothing further would have been required on my part.

"But certain parties were determined to be whitewashed, and their friends, not satisfied with that simple service, but to make the colors stand out more prominently by contrast, must needs attempt to paint me in opposite hues. That was both dishonest and unwise. Some of those parties may be excused. It was doubtless desired and expected of them. But not so in regard to Messrs. B. and R. In a report just previously made by them, recommending a code of by-laws, got up expressly to guard against the very illegal acts of which I complained, they had, in the most explicit manner, committed themselves to my cause. (See their report on those proposed by-laws, printed by order of the stockholders.)

"Why, and under what circumstances they changed their policy, has been fully set forth in my last pamphlet.\*

"Upon a careful review of the whole subject, while I deeply regret much that has transpired, and would gladly recall all of bitterness of expression which, under the most cruel provocations, I was constrained to publish in defence of my reputation, so ruthlessly assailed, I must in truth, and in duty to myself, reaffirm the essential truth of every important imputation made by me, as well as the correctness of the several expositions of the wrongs of the several parties, as set forth in the "History of the Investigation," the "Review of the Report of the Committee," and the subsequent publications,\* called forth by the more recent acts of the imputed parties, or their friends of the Investigating Committee.

"In conclusion, I beg the reader to bear in mind how much easier it is, in such a retrospect, to discover and lament or condemn mistakes and errors of judgment, than to foresee and avoid them at the time."

WM. E. DODGE, Esq. :

NEW YORK, March 9, 1860.

MY DEAR SIR: May I earnestly solicit your candid consideration of what I am now about to write.

I address you individually, and as a Christian brother, and not in any associate capacity.

In the collisions of business matters, we, who were for so many years in pleasant relations as friends, have been brought into alienation and estrangement.

Members of a Christian church, it should occasion either of us a profound sorrow to do anything which would bring reproach upon that Blessed Saviour whom we desire to honor and serve.

We are making rapid advances in life, and the time cannot be long before we shall both stand before Him who searcheth the heart. I desire to live and die with a pure conscience; I most earnestly desire that there may be an adjustment of our present unpleasant differences on Christian principles; believing it to be, not only our solemn

\* "Railroad Mismanagement," &c.



duty, but that it will also conduce to our mutual comfort and happiness, and usefulness.

Some overtures which I designed should lead to this result were unsuccessful; perhaps they were not wisely conceived or rightly expressed or correctly understood. I am more willing to concede that there was some infelicity on my own part, than to reproach you for not accepting them. I mean to be so explicit now that there can be no misunderstanding of my real feelings.

If any of our differences are the result of misapprehension, they are capable of explanation. If there has been wrong on both sides, there is a place for mutual concession.

In regard to myself, I am far from making any pretensions to infallibility. I can see much which I wish had never occurred, and which I sincerely regret. If my present object were self-exculpation, perhaps I should plead the power of provocation; to which I might add, that I felt myself driven to some measures which would have been avoided, had I been allowed a more suitable opportunity for explanation and vindication; but on this occasion I have no desire to shield myself from all blame.

Wherein my disposition or conduct have been other than they should be, it is my desire to acknowledge and deplore it; and if I have done wrong, it will give me sincere pleasure to repair it. I say this that you may not misunderstand the spirit in which I now approach you.

On the other hand, I am not willing to believe that you, a Christian brother, would be happy to see me resting under imputations which are undeserved. It would, I believe, occasion you real pain, should I die with heavy charges resting upon my name, to the grief and injury of my family, which it was in your power to remove; or with the conviction on my part, that you had done me great injustice and wrong.

Permit me therefore to say, that I am living now under the consciousness of a great wrong which it is in your power to remove. I do not now advert to differences of opinion in business matters, where our judgments as to measures did not agree, but to charges which affect my private character, which seem intended to "stamp" me as undeserving of Christian confidence, in reference to which I feel that I can and must invoke the interposition of your Christian truth and honor.

I cannot but think (and it would be a relief to me to know that it was so) that you have forgotten the terms of that language in which you have indorsed charges against me (all of which I sincerely believe are without foundation in fact), and from the effects of which, in their influence upon the minds and actions of others, I am still suffering.

Will you permit me to recall to your memory a few expressions out of the document referred to (the possession of which has so strangely and persistently been denied to me), which by their wrongfulness and severity have done me so great injustice, and occasioned so many painful feelings to me and others. I give you but a part of the few I was enabled to procure.\*

1st. \* \* \* *"There is now no difference of opinion in relation to the ex-President's gross misrepresentations and mischief-making conduct."*

\* These are the ten specifications named and referred to in exhibit "A," and submitted to Session, as part of my charges against Mr. Dodge. Many others of a similar character occurred at intervals throughout the whole thirty-one folio pages of the document, from which these, with so much difficulty, were copied. Not one of them could be justified by truth, or excused by any provocation. Indeed, *they were all disproved*; but after their designed effect had been accomplished, my proofs and evidences of their falsity and injustice were ignored by the Committee. (See the pamphlet before referred to.) How similar to the proceeding of which I now complain!

2d. \* \* \* "There is a malignancy of insinuation and falsification of fact that are unaccountable, except upon one principle well known to this Board."

3d. \* \* \* "A valuable water-power was wantonly destroyed by direction of the ex-President." \*

4th. \* \* \* "This is another of those insinuations false and wicked."

5th. \* \* \* "He sought by pouring poison into the minds of different members of the Board, to influence them against him" (the Treasurer). "The talk of an Auditor was only a cover for the lurking attempt to undermine Mr. —."

6th. \* \* \* "A second great cause of difficulty, was a personal quarrel and lawsuit with a neighbor, Mr. Dodge, a member of this Board.† He carried this quarrel so far, that finally Mr. Dodge, for the sake of peace, yielded everything he required." \* \* \* "This led to that vindictiveness toward Mr. Dodge rarely seen in a man of sound mind."

7th. \* \* \* "It has been intimated that the defeat of his darling scheme was another great cause of his ill-tempered proceedings."

8th. \* \* \* "The ex-President's manner in the Board ‡ and in the office were ungentlemanly, and at times disgraceful," ("disgusting" first written, and partially erased.) \* \* \* "He would not hesitate to charge falsehood upon the members of the Board with great frequency."

9th. \* \* \* "The whole truth may be summed up in a few words. The ex-President is a quarrelsome man. He has quarrelled with his minister—his physician, and his neighbor—with his partner in business, and the mechanics who build his houses and repair them." \* \* \* "It remains for us to say that the interests of the company have been seriously prejudiced by the ex-President." "His obstinacy and jealousy—his unfortunate temper, and especially his desire to introduce what he called improvements in machinery, have been a cause of large loss to the company. The loss on the single article of locomotives, which the ex-President took the responsibility to order, contrary to the opinion of some members of the Board, who strongly remonstrated against it, is very large, besides greatly embarrassing the operations of the company." §

Your special attention is called to the following:

10th. \* \* \* "And if the present managers || are found deficient in duty, let the stockholders appoint others who will serve them more faithfully, more truly, more disinterestedly; on the contrary, if the committee believe that the ex-President is a quarrelsome man and a mischief maker (and if they regard the unanimous testimony of the Board they will so believe), they are called upon to stamp him as such. Their duty

\* There was not the shadow of foundation for that assertion. See my next letter.

† This extraordinary misrepresentation is unpardonable in Mr. Dodge. Others might err through misinformation. He could not. He knows, and knew when he signed that document, that there was not *one word of truth* in the whole charge. (See "Railroad Mismanagement," &c., pages 26, 27, and 28, and fill the blanks therein with "W. E. Dodge.")

‡ This charge comes with a bad grace from gentlemen who had twice—through committees and otherwise—persuaded me to recall my resignation of President of the company the same year; and after I had been three times reelected to the office by the stockholders themselves, and without *even one dissenting vote*.

§ This, too, was most triumphantly disproved at the time, and no one better than Mr. Dodge knew its falsity.

|| This paragraph may be regarded as the key to the whole matter, and it shows conclusively that the object of Mr. Dodge and of the conspiracy, in the scandalous charges thus made against me, were to ruin my character in the estimation of the said Committee, and thus to pervert their judgments, and influence their report; which purpose was but too well accomplished. For a full exposition of this matter, see the pamphlet "Railroad Mismanagement," &c., pages 42 to 55. See also 13th and 14th pages of same pamphlet, where sundry liberal rewards are offered for another document so full of errors, anywhere within the limits of semi-barbarism.

*to the managers, their duty to the stockholders, and their duty to themselves alike demand such action at their hands."*

Now, my Christian brother, both of us profess to act according to the Christian rule, "Do unto others as we would wish others to do to us."

Would you wish to rest under such imputations—so severe—when you were conscious that they were not true, nor deserved?

I have no wish to deal in recriminations, but I honestly feel that I am suffering from your acts.

Wishing to do what is right to you from me,—is it not a duty which I owe my family, my own name, and the Christian church, that I should ask for right to be done to me?

You will not misjudge me for addressing you individually and separate from all your associates. You and I now worship at the same altar, and sit down at the same communion table; you have known me well for many years. In regard to the untruthfulness and great injustice of several of the matters referred to, no one is better able than you to decide; and, whatever may be the case in regard to others, are there not special reasons why there should be a prompt and proper reconciliation between you and me?

Do you inquire what I should wish you to do, in the premises? It is not for me to dictate. May not the matter be left to your own Christian feelings and judgment?

You are aware what proposals I have frequently made, and which—if that course should still be deemed best or necessary—I hereby renew; viz., to refer all matters of difference between us to any impartial arbitration; agreeing on my part to abide by such decision as may be thus obtained; hoping thus that all misrepresentations and differences may be remedied in a manner which will be for the honor of religion and our own personal and domestic peace.

These suggestions, as you will not fail to notice, are for you alone.

Hoping that this communication will be received in the spirit in which it has been written, and praying for Divine guidance for us both, permit me once more to subscribe myself,

Your Christian brother,

GEO. D. PHELPS.

NEW YORK, 14th March, 1860.

GEORGE D. PHELPS, Esq.:

MY DEAR SIR: Your favor of the 9th instant was duly received, and my answer has been delayed that I might give it the careful consideration that its contents appeared to demand.

I can but regret your allusion to past differences, for I had long since determined to forget and forgive the past, and have endeavored so to act towards you that I presumed you were convinced that I entertained no hard feelings, but intended to treat you as a Christian and neighbor.\*

\* Up to this day, although I have repeatedly asked for the explanation,—I have never known what Mr. Dodge means by his professions of forgiveness. I can understand why he desires to "forget,"—but he has never told me what he wishes to forgive—or of any injury I have done him.

Both he and his friends seem to labor under a misapprehension in regard to my purposes in seeking a reconciliation with him. They seem to think it is altogether prompted by a desire to be restored to his personal favor! It has recently been intimated to me by one of our elders, that Mr. D. was ready now "to shake hands, and make up!" Many a person now suffering for his wrong deeds would be glad to "shake hands and make up;" but no man is rich enough to purchase my favor in that way—so long as he will persist in wrong and injustice.

I have no disposition now to go back and recall the many unpleasant matters of the past, nor do I think it would be calculated to bring us any nearer together.

The extracts you have made were made from a document signed by a number of gentlemen as well as myself, in defence of charges made against a part of our number, but which all united in the reply, and were made under very peculiar circumstances, and would have remained with the committee to whom they were addressed and never have met the public eye, if you had not seen fit again and again to have published them. This I have always regretted, but cannot be held responsible for.\*

I cannot see that any great good would result from the reference to which you refer, nor will the state of my health or my time at any time warrant such an undertaking.

I hope we shall both be guided by Christian feelings; and the fact to which you refer of our worshipping in the same church, will be a further incentive, I think, to the cultivation of kindly intercourse.

Reciprocating all the kind Christian sentiments in your letter, I take pleasure in subscribing myself,

Your Christian brother,  
WM. E. DODGE.

NEW YORK, 21st March, 1860.

GEORGE D. PHELPS, Esq. :

MY DEAR SIR : In a conversation last evening with our mutual friend —,† I

\* See my next letter for reply to this.

† This was the party before referred to as "our mutual friend," and the author, or at least prompter of these first letters; and who then acknowledged the insufficiency of Mr. D.'s replies. The day after this letter was received, viz., March 22d, 1860, and after we had consulted together over it, I received from this "friend" a note, in which he says: "Be so kind (if your judgment favors) as not to communicate with Mr. D. till I have had one more interview with him." I accordingly waited, and on the evening of next day received, through this "friend," Mr. D.'s letter of 23d March.

This third letter, after an evening's discussion with our friend, proving equally unacceptable, I left to write my reply, but the next morning, very early, received the following note from our friend, viz.: "Please let me have *that* letter, and know nothing about it till you hear from me after the Sabbath."

The Monday afternoon following, I met our friend in Broadway. He had consulted with some one, and had determined to have no more to do in the matter. He redelivered the letter to me, and I promptly wrote the following reply to Mr. Dodge; and on the same day wrote our friend as follows—from which it will be rightly inferred that a discussion, and some change in his views, had recently occurred :

NEW YORK, March 26th, 1860.

" — — — :

"In reference to the past, but without troubling you further upon the subject, I think it my duty to inform you, that upon the most serious consideration, and under the advice and sanction of Christian friends, I have addressed a reply to Mr. Dodge, which I feel quite sure will bring from him a response, better calculated than any yet received, to secure an honorable and *permanent* adjustment of all difficulties between us.

"I hope he will show it to you, for I feel equally confident that you will approve its tone and character, and justify me for the motives which prompted it; I most sincerely hope so, for it is one of the most painful events connected with this whole matter, that I could not promptly bring my convictions of duty into perfect harmony with your judgment. But I fully trust that you will yet approve, or at least justify my course.

"I beg you, therefore, to excuse my seeming want of deference to your wishes, and to suspend your judgment of my acts, until my plans are developed. Perhaps you will find my acts better than my expressions; at all events, I shall aim to be governed by Christian principles.

"Your misapprehension of the understanding between Mr. — and me, concerning the proposed letter, will be explained at another time.

"Very truly yours, &c."

It will be noticed in the foregoing, that our judgments of *my* duty had begun to differ; and from this time onward, I had neither the sympathy nor forbearance of our former "mutual friend."

found he was made acquainted with our recent correspondence, and suggested the idea that it would be, he thought, gratifying to you, to have me state more fully than in my last, my desire that you should understand that I retained no unkind feelings towards you; and that, in the review of the past, there are many things which had been said and done which I regretted, and if in any way I had wounded your feelings, I deeply regret it, and trust the past may now be forgotten, and that our future intercourse will be such as becomes those who desire to act in view of eternity.

Very truly yours,

[Signed]

WM. E. DODGE.

NEW YORK, March 26, 1860.

WM. E. DODGE, Esq.:

MY DEAR SIR: Your several letters of 14th, 21st, and 23d insts.,\* in reply to mine of the 9th, were all duly received, and my answer has been postponed for reasons well known to you.†

I cannot think you will be much surprised that I say to you, that after a careful examination, I can find nothing in yours which can be construed into a proper response to my letter to you.

This result I most sincerely regret. My letter was intended to be so frank and unreserved, as to open the way for a reply which should, at once and forever, dispose of all matters of difference between us. I think, upon a reperusal of the correspondence you will be satisfied that you have not met the case as submitted by me.

The charges made by you against me are too specific and aggravated, and have wrought their intended work too thoroughly, to be disposed of so summarily, or to be excused upon so indefinite expressions of regret.

In my letter to you I designed to convey the impression, and I will say now distinctly, that wherein you will show that I have wrongfully accused you, I will cheerfully and promptly offer a suitable unreserved apology.

While the terms of your letter express a generous spirit of forgiveness, I am left quite in doubt as to what are the acts to which your forgiveness refers.

I do not recollect anything imputed to you by me, which is either of a *personal* or *criminal* nature, or which is very derogatory to your Christian character; and in what I said of your official acts, I took pains to excuse you from all conscious and premeditated wrong. (See the Document.) By a reference to your charges against me, I think you will acknowledge they are about as severe as were ever presented against a Christian man. Some of them are purely personal, extending back over a period of many years, and some of them are of such a nature, that it would seem they must have originated with you. Those referring to my official acts, are all included in a period of time, during which you were not only a member of the Board, but also of the Executive Committee; and I think I have submitted to you documentary evidence that they were all without authority or justification. (See my reply as laid before the Committee, and afterwards published in my first pamphlet.)‡ If you are prepared to sustain your charges by any suitable testimony or justification, I will meekly submit to such odium and censure as such guilt would merit; on the other hand, if they can neither be sustained nor excused, would it not be more consonant with your acknowledged Christian character to withdraw them? Would you not be more happy thus frankly to relieve me from undeserved odium and censure? Would it not be more

\* This third letter is withheld, for reasons stated in footnote further on.

† These reasons are explained in the foregoing footnotes, viz.: for the effort of our "mutual friend," to get a satisfactory answer to my first letter.

‡ And since recapitulated in the pamphlet, "Railroad Mismanagement."

noble in both of us, and more honorable to our professions, to make a generous, unreserved confession and a full retraction of all we have done wrong to each other? This I shall be most happy to do. Indeed, I know of no other course for a Christian to pursue.

Confession must always precede forgiveness. It seems to me to be a solecism to expect the one without the other. For myself I know not how to accept forgiveness for acts to which my attention has not been called, and of which I have no recollection or consciousness.

Both confession and forgiveness, to be acceptable or lasting, must be specific and unreserved. With these views, you will excuse me for saying I esteem your letters too hypothetical and reserved. "If" is sometimes a hard word to get around; and to express regret for acts "if" they have been committed, or which I may "esteem as derogatory to my character," &c., is certainly a very non-committal expression.

In addition to its reservations, your last letter has been given to me encumbered with such restrictions in regard to its use, that its value to me, even if acceptable in other respects, would be but little. I feel constrained, therefore, to make no further allusion to it; but your first invites a few comments.\*

While tacitly acknowledging the correctness of my quotations of your accusations against me as given in my last, you seem to justify them on the ground that they "were in a document signed by a number of gentlemen as well as yourself, in defence of charges made against part of your number," &c. Have you reflected upon what is here conceded? viz., that sixteen were, by some means, influenced to join in a "defence" of only seven of their number? or, more truly, a severe personal attack upon me, for but slight imputations against the "official" acts of but seven of that number, and they specifically named? What could be the motives for such an unnatural combination? Does not the last quotation from the charges so presented, clearly indicate the purpose of that combination? †

I shall be pleased to have any better explanation. If no better reason exists, would you not feel happier to withdraw charges so made?

By this plea, that you were but one of a number, did you intend to relieve yourself from personal responsibility? A moment's reflection must show you that such a plea will not avail before any civil or moral tribunal; and least of all, before that at which you and I must soon appear.

You next seem inclined to hold me responsible for the publication of those charges, and to excuse yourself that they were designed to be used before a committee appointed *only* to investigate imputations against you. Did you ever reflect that the peculiar (secret) manner in which they were got up and used, after you had assured the committee that you had no charges to make against me, was the most aggravating circumstance connected with the act? And are you not aware that their publication was a necessity imposed upon me by the persistent refusal of all opportunity to reply to the committee's report, influenced by and based upon those accusations? Were you not present and assenting to that refusal? Were you not appealed to subsequently by our mutual friends, and earnestly requested to suppress that report so made, with the consent on my behalf, that in such case I would suppress my promised publication, and suffer in silence all the injustice which had been done to me? Did not you and your associates decline those peaceful propositions, and publish and scatter broadcast throughout the land several thousands of that report? Under such circumstances,

\* See following footnotes upon this subject.

† This refers to one of the specifications under the charge of conspiracy. A large number, against whom no imputations had ever been made by me, were induced to join in Mr. Dodge's libellous attack against me, and thus to increase the power to crush me.

was I not justified in showing how that committee had been acted on and influenced to make such a report, so full of grave errors, misquotations, misrepresentations, and wrongs? \*

You next express the opinion that no good will result from the arbitration or reference proposed by me, "nor will your health or time warrant such an undertaking." Will no good result from a friendly, Christian reference? Have you, who so liberally devote your time to public duties, no time or health to devote one evening to the adjustment of a three years' alienation with a Christian brother? One evening would furnish more time than was allowed me to vindicate myself before the committee who received and were prejudiced by your accusations.

But I will not pursue this phase of the subject. I recur with more pleasure to your genial Christian sentiments. Your assurance that "you retain no unkind feelings toward me" is most welcome, and leads me to hope that a kind consideration of the foregoing, and a reperusal of my last letter, will enable you to give me such a reply as will effectually obliterate the past, and enable us to meet and dwell together as friends.

Sincerely desiring that result,

I remain your Christian brother,

GEO. D. PHELPS.

NEW YORK, 29th March, 1860.

GEORGE D. PHELPS, Esq. :

DEAR SIR: I am in receipt of your favor of 26th instant, and after carefully reading that and your former letter, I cannot see that my answers should have been different from what they were, and I did hope you would have met them in the spirit in which they were indited; as it is my wish to act in the spirit of my letters, I cannot think it will lead to further that object by longer continuing the correspondence.

Yours very truly,

[Signed]

WM. E. DODGE.

NEW YORK, April 9th, 1860.

WM. E. DODGE, Esq. :

DEAR SIR: Your favor of 29th ult. was received on the 30th, and I deeply regret the conclusion to which you seem to have come in reference to the matters between us.

I cannot see it to be my duty to rest without one effort more to avoid the consequences which seem to me to be so unnatural and improper in your and my position.

Since all my proposals of friendly mediation and proffers of prompt and unreserved retraction of every imputation wrongfully made against you have been declined, and since my more gentle appeals to your Christian duty and honor have proved so unavailing, I am sure I shall be justified in this last resort to your sense of justice as a man.

You stand confessedly guilty of conspiring or combining with fifteen others, to produce against me accusations and charges, in number and severity enough to crush any living man. Your motive appears to be sufficiently plainly exhibited in the charges themselves. You say they were "in defence of charges made against a part of your number," you, of course, being one of that number. What "charge" did I ever make against you, which could justify you in resorting to such personalities? Look at the documents; the substance of all I said was, that you were in an official position where your interests must conflict with your duties as a trustee or manager. I

\* See the full exposition of this matter in pamphlet before referred to.

did not say *you* had done any wrong act. I took pains even to excuse your position by saying, "I am quite willing to believe that the parties who have infringed upon this principle, have done so without any due consideration of its importance or of its moral bearings." (See my first pamphlet, page 81.)

That is the very language submitted to the committee. (See also my last pamphlet, pages 18 to 23.)\* What other accusations *have I ever made against you?*

You confess that there was a combination; you say "signed by a number of gentlemen," "in defense of charges made against a part of our number." How was that? † Had the accused neither strength nor innocence to defend themselves before the committee? Was it necessary to compel a number of unaccused parties to join in so extraordinary personal abuse of me, to save yourselves before the committee? As a *man*, I ask you—was it right?

You virtually confess that this attack upon me was a secret thrust, and you say, "would have remained with the committee to whom they were addressed." Is it any palliation that your apparent design to ruin my character was not intended for the "public eye?" Of course it was not—nor was it intended for *my* eye, as clearly appears from the agreement between you and the committee, that I should never have a copy, or the possession of it for a single hour. You was but "one of a number;" but let us for a moment consider your individual responsibility in this matter. There was but one—if any—in all this band of sixteen, who had known me so long or so well as you; and he was not restrained by any religious principles or professions. Many of the others were comparatively strangers to me, but not to you. Several had been but for a few months in the Board, and one, the partner of your particular friend, C. R. Robert, chairman of the committee, was never in the Board until months after I had left it; and he was nearly a total stranger to me, and to all the existing facts in controversy.

Now—do you not believe that neither he or any considerable number of the parties, could ever have been induced to sign that paper, if you had declined and not encouraged it? Do you not know that your charge that I "wantonly destroyed a valuable water power" is utterly without foundation or excuse? Do you not know that that "water power" was of *no* value—that it, with the thousands of acres of land on which it was,—was owned almost wholly by you, your friend the chief engineer of the company, and four of your associates (the accused parties),—that it was nowhere near the company's works—that it was "destroyed" by your own agent, because you were substituting a steam saw-mill in its stead? Do you believe that I ever knew of the transaction until long after it occurred? (See "History," page 49.)

Your other charges against my official conduct are equally unjustifiable. You was in a position to know that the by-laws and regulations of the company made it impossible, and you ought to know that I never did purchase a locomotive or other machinery to the value of *one hundred dollars*, without the formal sanction of the executive committee (of which you was a member), and the subsequent approval of the Board. (See "History," page 60.)

Without further particularity, must you not, upon calm reflection, confess that all your charges quoted by me, as well as several others not quoted, are almost, if not equally, without foundation or justification?

How could you make such a mistake in that which charges me with quarrelling with you? Do you not know that this difficulty grew out of your violation of a contract under seal and upon record? That I offered, by letter, "to submit the whole

\* "Railroad Mismanagement," &c.

† Here was a virtual confession of my charge of "*conspiracy*."



matter of difficulty between us, to your two brothers-in-law, Norman White and Anson G. Phelps, and to abide their decision," which you rejected? Do you not know, that I subsequently sold my house at a great sacrifice, and for the sake of peace, removed from the scene of difficulty,—voluntarily offering to pay my own costs and withdraw the injunction, while advised that the case was all on my side? (See "History," page 75 to 77, and the whole correspondence.)\*

Are you not aware that it was your religious and moral character which induced so many others to sign the injurious document referred to? and that also gave it such power for evil over the minds of your particular friends, C. R. Robert, and —, and their associates in the committee? Have they not, in their report, evidently tried to "stamp" me, as you "called upon" them to do? To use your own words, as applied to me,—Did you not "seek, by pouring poison into their minds," to prejudice them against me, and warp their judgments? You said to them, "If you believe the unanimous testimony of the Board, you will stamp" him, &c.;—and in their "card" in the *N. Y. Times* of Sept. 14th, 1858, they respond to your call, and echo your words thus—"Mr. Phelps stands unanimously condemned by the Board of Managers"—"unanimously condemned by the stockholders,"—and, as if to stultify themselves and show the absurdity of all their former pretensions of fairness and impartiality, they add, "unanimously condemned by the investigating committee," &c.; and this, too, in the very face of their written declaration now in my hands,—"that no investigation of charges against you (me) was contemplated." (See "History," page 5).† At what time previous to this investigation had either the Board of Managers or stockholders ever "condemned" me? or even disapproved, in any sense, of my official conduct? *Never*. I appeal to the records. Could the investigating committee, upon a fair statement of facts, and a candid discharge of their duties, ever have condemned me? *Never*. I was not even on trial before them. Two of them, Messrs. — and Robert, though your personal friends, had fully committed themselves against the acts complained of by me, by their expressed opinions and actions, as a committee on by-laws, until after your combined attack upon me.

There has never been a time, in my opinion, when you could not have put an end to all these difficulties. I know it will demand some sacrifice. Some of your late associates will strongly object. I think I know all the embarrassments in the way of your convictions of duty, as well as the supports upon which you seem to lean to sustain you in your present course. You never will feel quite happy or satisfied until you have done me justice.

As so often before proffered, I will hold myself ready to meet you for a reconciliation, on any proper terms.

A friendly Christian reference seems to me the most proper, and I cannot think that your "want of time and health" is a good excuse; especially when I recollect that since I commenced the present effort, you have spent several days in Philadelphia, and at least three evenings in this city, in presiding at religious, temperance, and political meetings; nor will it answer to call this a "question of difference of opinion on business matters." It is a question of truth and honor. It has now become an issue which cannot be evaded. You have unfortunately, and I hope undesignedly, precipitated it, by returning again to your old associates, and by coming into more intimate social (church) relations to me. These two acts are significant, and cannot be without their effects upon our mutual friends.

But I will close. I have spoken more plainly than I would have done, but for the

\* See the correspondence here referred to, "Railroad Mismanagement," pages 26 and 27.

† See letter to C. R. Robert, "Railroad Mismanagement," page 44.

failure of my two former appeals to your Christian sympathies. I am not willing to give up this effort for a reconciliation as impossible. I must still indulge the hope that you will do me justice.

It is proper I should say that upon further examination, I find that "the restrictions" in regard to the use of your letter of 23d ult., do not apply to that paper, as I supposed when I last wrote.\*

Without further reply from you, this will, of course, terminate our personal correspondence on this subject.

I remain, very respectfully, yours, &c.,

GEO. D. PHELPS.

NEW YORK, April 11th, 1860.

WM. E. DODGE, Esq.:

DEAR SIR: I was surprised to learn last evening that there is a misunderstanding in regard to the use of your letter of 23d ult.\* I am happy to inform you, however, that it has not "been published or shown to any of your late associates," nor was any such use of it contemplated by me. The liberty to show it to a few of my Christian friends was expressly reserved. If preferred by you, however, I will suppress its use entirely, on such desire from you being received.

Very respectfully, yours, &c.

[Signed] GEO. D. PHELPS.

No reply received to this letter.

Besides the foregoing correspondence with Mr. Dodge, there was submitted to Session, at the same time, one of June, 1859, and another of May, 1862. Neither is of sufficient importance to be reproduced in full,—in this already too extended pamphlet,—but the entire copies, certified by the Stated Clerk, as having been presented to Session with my charges against Mr. D., may be seen by any one interested.

The first grew out of an application of Mr. D. for aid to a deserving young man; to which I cheerfully responded with a donation—at the same time availing myself of the opportunity to call his attention to our unfortunate differences,—which he answered by returning the money I had sent him, with the declaration \* \* \* "Self-respect will not permit me to retain the ——— dollars you enclosed, or be the medium of your bounty to the young man referred to. Declining to enter at all into the matters you refer to, except to ignore all your charges as far as I am concerned, I remain, respectfully, yours, &c."

The other, of May 9, 1862, opened with a statement that no interview had been

\* The third letter of Mr. D. (March 23d, 1860), in answer to my first, is claimed to have been given to me with special restrictions against its publication, or its being shown to any of his former associates. It seems a pity to suppress it here; but the following, from a note from our former "mutual friend," under date of April 10th, 1860, leaves me no discretion in the matter.

"MY DEAR MR. PHELPS: I was quite surprised when Mr. Dodge read to me the following extract from your note to him of April 9th." \* \* \* "What has led to this change in your judgment I do not know, as I have not been conversant with the case since the delivery of Mr. Dodge's letter to you. But you must bear in mind that my own honor and veracity are now implicated with both parties."

"The letter which Mr. Dodge wrote to you, and which passed through my hands, was written on the understanding (so promised to him by me), that it should not be published or shown to any of his associates. That pledge I repeated to you, in my study, before I read you the letter of Mr. Dodge, which was given to you by me on that condition." \* \* \*

While I honestly differed with our friend in my recollection, on some points insisted on by him, I have rigidly conformed to his and Mr. Dodge's understanding of the matter, as will be seen by my above note to him of April 11th.

had between us since he joined our church;—and that notwithstanding his former intimations that no good could result from further discussion of our matters, “I am induced to ask whether you will see me to-morrow alone, or with two or three Christian brethren, with a view to a reconciliation and settlement of those difficulties?”

In his (second) reply, after stating that he had “thought much of my suggestion”—and after another liberal expression of kind feelings, and “the earnest wish that we should forget and forgive all past differences,” &c., he adds, “and therefore can see no possible good that can result from any further reference to them, and am confident that it would be worse than useless for us to discuss them; and therefore, I doubt the propriety of the plan you suggest.”

My last, of this series, under date of May 16th, 1862, after referring to our correspondence of 1860, proceeds—“I had hoped that two years’ calm reflection \* \* would induce you, on my return from abroad—if not to come promptly forward and make a manly, generous, and Christian confession, and a full retraction of your false accusations against me—at least to avail yourself of my oft-repeated and long-standing proposals to submit all matters of difference between us to a friendly Christian reference or arbitration.” \* \* \* “It is true you make extravagant professions of kind feelings towards me, as well as the most magnanimous proffers of forgiveness. But though you have been often requested to do so, you have never specified any act of wrong done to you by me, and therefore I cannot apply or appropriate your forgiving grace, and am still left in great doubt as to the sincerity of all such professions of kind feelings.”

“You have also, often expressed the “*earnest desire* to forget all past differences”—in which expression I can easily believe both your earnestness and sincerity; but you must excuse me for thinking, that you can never forget—no, not in eternity,—the wrongs you have done me, until you first make some suitable retraction and apology for them.” \* \* \*

“Having exhausted all other means, and conformed fully to the injunctions of our Saviour in such cases (Matthew xviii, 15, 16), it seems to be my next duty to resort to the course indicated by the same authority in the verse following.”

“Regretting the necessity of this measure, I remain,

“Yours, respectfully.”

The following communications to Session were made after the final effort for an adjustment with Mr. D. had been made, and he had, without my knowledge or consent, repudiated and erased his name from the written agreement heretofore mentioned, and which will be found farther on. The first, under date December 11th, being an explanation of that event, and urging the Session to proceed in the case, is omitted.

193 MADISON AVENUE,  
NEW YORK, December 12th, 1862. }

*To the Session of the Madison Square Presbyterian Church:*

BRETHREN: Since addressing you yesterday, my attention has been directed to the embarrassments which are supposed to exist in the minds of some of your number, interposing obstacles to the consideration of my complaints against Mr. Dodge.

So far as practicable, I shall be glad to remove all such embarrassments. With this view, and with the desire to close my controversy with Mr. Dodge before the first day of the new year, I propose, if Mr. D. will promptly concur, to confine my charges and specifications to such papers as have been already laid before you, which shall be immediately submitted to Mr. Dodge; after three days he shall return them to you with his replies and counter charges, if any, which, in turn, shall immediately be submitted to me for three days; after which we will appear before you to be qualified, and mutually and reciprocally questioned by each other, and by the Session, for a period of

time not exceeding, altogether, one evening or four hours. After which, one evening (not exceeding four hours) shall be devoted to argument, illustration, and appeals, by Mr. D. and myself, in order; each being allowed and confined to the same time, when all the matters between us shall be submitted for the decision of Session, who shall render their decision before the first day of January next. By this arrangement, all appearance of witnesses and presentation of new charges will be avoided, and much time saved to the Session.

This will be a great sacrifice on my part, but I will cheerfully make it for your sakes, to avoid long and vexatious litigation, and to secure a final settlement, if possible, before the close of this year.

This proposition involves prompt action on your part, and your early response is requested; and if in the negative, I shall proceed to present such further charges and list of witnesses as I may have to submit.

Very respectfully, &c.,

GEO. D. PHELPS.

No reply was received to the above, nor—as appears upon the Minutes, —any other action, than that it “was read and placed on file.”

NEW YORK, December 17th, 1862.

*To the Session of the Madison Square Presbyterian Church :*

BRETHREN : Referring to my two communications of the 11th and 12th inst., I now submit to you the additional specifications of charges against Mr. Wm. E. Dodge, therein referred to, and also the additional lists of witnesses to be cited upon my complaints.

I am constrained to present these now, to guard against any objections which may be raised by any of your number, to any possible informality in my proceedings. Under my general charges against Mr. Dodge, of dissimulation and conduct unbecoming a professed member of the Church of Christ, I add the two following specifications; viz. :

FIRST, that upon the appointment of a committee of three of your number in June last, to try to effect a reconciliation between Mr. Dodge and myself, and upon their subsequent several efforts to bring about a meeting between Mr. Dodge and myself and the said committee, while I cheerfully met with them at their request, and would gladly have met with Mr. Dodge; and while I offered and stood ready to do anything which should be indicated by said committee as my duty to do, with a view to a settlement and reconciliation with the said Dodge; he, the said Dodge, declined all such friendly and Christian overtures, and peremptorily and persistently rejected all such proffered means of reconciliation, by refusing to meet the said committee or me; thereby manifesting the unchristian spirit herein complained of; and while professing to have no unkind feelings nor any complaints against me, he refused to confer upon our difficulties; thereby manifesting the dissimulation herein complained of as unbecoming a professing Christian and a member of the Church of Christ.

And I submit the names of Elders Ketchum, Hartley, and Kingsley, as my witnesses in my complaint under this specification.

SECONDLY. I further charge the said Wm. E. Dodge with dissimulation or insincerity, and with conduct unbecoming a professed follower of Jesus Christ in this: that during the forepart of the present month, at sundry times, between the first and twelfth days of said December inst., while one of your number, in good faith, and from the best of motives, was zealously trying to effect a reconciliation between Mr. Dodge and myself upon Christian principles, and while the said Dodge declared that he had no complaints against me, nor any unkind feelings, he declined and rejected the several reasonable and proper propositions submitted to him in writing, and otherwise, for an adjustment of all our difficulties upon Christian principles, viz.: 1st. In rejecting and refusing to write to me a simple, brief, and very general letter of regret, or recantation of wrongs, acknowledged in previous correspondence as done by him, with the condition and expressed willingness on my part, that I should address

to him a corresponding note, and which it was understood should terminate all our difficulties. 2dly. In repudiating and annulling, the day after it was signed by each of us, viz., on or about the 9th of December inst., a written agreement to refer all our differences to a committee of reference of five mutual Christian friends, three of them named by himself, and two of them by me; the said agreement providing that no general reference should be had to old matters, and that but one evening should be occupied in presenting and arguing our causes before the committee, whose decision should be final and binding upon each of us, and which should not be published, but only used and shown to our mutual friends, in explanation of our settlement, &c. And, 3dly, that after said repudiation on the part of said Dodge, and another amendment or proposition had been made on his behalf, viz., that I should confine all my complaints to be laid before said referees to the written correspondence between us, and which was then and now before the Session; and, after I had signified my acceptance of this third proposition, in writing, and had asked also in writing,—“Should all my propositions be finally declined, let Mr. D. submit his ultimatum, to which I will promptly signify my assent or dissent,” &c.,—Mr. Dodge did not only ignore and reject this my written acceptance of his supposed proposition, but in a manner and form uncandid, and greatly to my prejudice, pretended and endeavored to convey the impression in his written reply, that I had rejected *his* proposition; and thus he closed the correspondence and my efforts for a reconciliation, while he at the same time ignored and left unanswered my call for his final proposition, which I not only expected from him, but fully intended, if possible, to accept; and thus, forever, to close our controversy. In proof of this last complaint, I submit the testimony of Elder —, —, and —, and the several memoranda and written agreements above referred to, and now in the hands of Mr. —.\*

I also now submit the names of —, —, —, and —, as additional witnesses in the case of my first charges of conspiracy, falsehood, defamation, &c., heretofore presented against Mr. Dodge.

Should any of the foregoing specifications be deemed superfluous, my brethren will please excuse such for the reason that I have been much embarrassed with intimations of objections to both the form and order of my proceedings, which have made more specific and prolix action on my part necessary.†

Very respectfully, your brother,

GEO. D. PHELPS.

I desire particular attention to the following letter to Dr. A. It was written in good faith, and in the hope that it would secure to me some relief from the embarrassments therein named; but I was mistaken. No notice appears to have been taken of it.

No reply or other reference was ever made to it, until two days after my charges had been so abruptly dismissed (which was the very evening this letter was received), when Dr. A. called on me, and, referring to the dismissal of my charges against Mr. Dodge, said, that he had called to reply to

\* Since this communication was submitted to Session, I have succeeded in obtaining copies of all the memoranda and letters, and also the agreement referred to above, which was so abruptly repudiated and destroyed by Mr. D. See page 48.

† I am informed that some of my good friends in Session disapproved of my making Mr. Dodge's contumacy a cause of complaint.

Would they have me submit to all sorts of indignities, and a continued, persistent rejection of all friendly proffers of compromise, and then deprive me of the usual and proper advantages of such acts?

Should I not avail myself of such an opportunity to counteract the efforts being made in Session, to shut out my charges on every conceivable pretext of informality, real or unreal, “limitation of time,” &c., &c.?

It will be noticed that five of these communications were prompted by such continued efforts on the part of some in Session; and it will also be seen that they were all overruled and disposed of, by “being placed on file;” and the very night this was received by Session, the case was “dismissed,” because it was “*inexpedient* to entertain the charges,” &c.

that letter. I had not got over my amazement at the extraordinary action of Session, and with all his recent agency in the matter pressing upon my mind, I did not feel very kindly toward him; and thought it more prudent not then to converse with him on the subject. I therefore said to him mildly, that I thought my written communication deserved an answer in writing. To his retort,—that he had no time to write answers to my letters,—I said he might do as he pleased, but that I must now decline to *talk* upon that subject, for the reason assigned, that I was afraid to trust myself, and that further misrepresentations might result from it. He then proposed to talk with me as my pastor; in objecting to which, I assigned the same reasons, and again assured him that I would cheerfully receive and consider any communication he would make to me in writing; and he abruptly left.

I am informed that other versions have been given of this interview,—if so, I reply that I soon after made a note of the transactions, and also, that I have other corroborative testimony, and I declare the foregoing to be essentially true.

I avail myself of this occasion to correct another erroneous statement to members of Session; viz., "that I had written him scores of letters," concerning the charges against Mr. D. After a very careful examination (and I have been very particular to preserve copies), I can find no trace of more than *three*, up to the time this assertion was made, extracts from two of which have been given herein; and until he can produce them, I shall believe that I wrote him no others. None of these were calculated to prejudice his mind. I cannot think he designed it, but a wrong impression was produced by such assertions, which it seems *necessary* for me to correct. No further interview has been had between us, except my new year's call, which has not been returned.

193 MADISON AVENUE,  
NEW YORK, December 17th, 1862. }

REV. WM. ADAMS, D.D.,

*Moderator of the Session of the Madison Square Presbyterian Church :*

MY DEAR PASTOR: Enclosed I hand you a communication for the Session of your church, which please lay before them at the commencement of the meeting this evening.

I avail myself of this occasion to refer to our brief interview of last Friday, and to renew the request I then so briefly made to you, viz.: that you would do me the favor, as far as practicable, to withhold the expression of your opinion upon the matters at issue between Mr. Dodge and myself, at least until the Session shall have fairly discussed them, with the facts and evidence in their possession; and even then, so far as such expression would tend to the formation or undue influence of the opinion or action of others of the Session.

You may not be aware that your official position and your social connection with some members of your Session, give you great, if not undue influence over them. You may not be aware that your late free expression of your opinion, and your probable action in the matters referred to, have caused me painful feelings, and much embarrassment in my proceedings. These sentiments have been often expressed to you, both verbally and in writing. Perhaps I have erred in my views, or in my manner of presenting them to you. If in either, I beg your indulgence and forgiveness. I have the opinion that the presiding officer in any ecclesiastical court, who has the casting vote, is expected to be cautious in making known

his opinions and determinations upon proceedings not yet examined or fully discussed, lest his known views and contemplated actions should influence others, and thus prejudice the cause submitted for adjudication, and perhaps help to form an unrighteous judgment.

Perhaps I am wrong. If so, I may still appeal to your Christian sympathy, and beg you to exercise towards me the precepts of the Golden Rule. You must be aware, my dear pastor, of my need of the sympathy of all my Christian brethren, and especially of my pastor. I do not ask or expect any favoritism; I ought not to expect or to fear any favoritism to be manifested for my opponent. May I not have the assurance or hope, that you and all the brethren of the Session, will enter upon the investigation of the matters submitted by me, unprejudiced and uncommitted to any decision.

I know that many are still in that proper state of mind, and I shall be glad to know that all are so disposed.

Do not misunderstand me, my dear pastor. I know both the strength of our predilections, and the weakness of poor human nature; and I do not mean to imply any censure; but I do desire a fair, impartial examination of the complaints submitted by me, and to that end, I have addressed you this note, and remain

Respectfully your Christian brother,

GEO. D. PHELPS.

REV. WM. ADAMS, D.D.

I hereby certify the foregoing to be a true and correct copy of the original communication addressed by Mr. Geo. D. Phelps to Rev. Wm. Adams, D.D., Moderator, &c., which was accompanied by a communication to Session of Madison Square Presbyterian Church, of the same date (Dec. 17th, 1863), from Mr. Phelps, of which he has a certified copy.

[Signed]

FREDERICK BULL, *Stated Clerk of Session.*

NEW YORK, January 15th, 1863.

Thus my case was submitted, and while I was still waiting a citation to meet with Session, I learned on the morning of the 18th December, that the complaint was dismissed, and on the next day received the following, viz.:

"NEW YORK, December 18th, 1862.

"GEO. D. PHELPS, Esq.:

"DEAR SIR: I am authorized by the Session of Madison Square Presbyterian Church, to communicate the following resolution to you, passed last evening:

"*Resolved*, That in view of all the circumstances of the case, and in the exercise of the discretion enjoined upon the Session in our Book of Discipline, it is inexpedient for the Session to entertain the charges and specifications of Mr. Phelps against Mr. Dodge and that the same are hereby dismissed."

"Attest,

FREDERICK BULL, *Stated Clerk.*"

I immediately gave Session the required notice of my intention to carry the case up; and upon the usual application, I received from their Stated Clerk a certified copy of the record of their proceedings, from which I submit all that is of any interest in the case, generally omitting the usual preliminary notice of those present, &c.

"From the Minutes of the Session of the Madison Square Presbyterian Church in the city of New York.

"Session met in the lecture room, Tuesday evening, May 27th, 1862; present, Rev. Wm. Adams, D.D., Moderator; Elders Hartley, Benedict, Ketchum, Wood,

Kingsley, Lane, Trask, and Bull. Opened with prayer. Minutes of the previous meeting were read and approved.

"A communication\* addressed to the Session by Mr. Geo. D. Phelps, a member of this church, was read in part, when, the hour of adjournment having arrived, the meeting was closed with prayer.

"FREDERICK BULL, *Stated Clerk.*"

At the meeting June 5th. \* \* \* "The communication of Mr. Geo. D. Phelps was taken up and read entire; whereupon the following preamble and resolution were adopted:

"Whereas, Certain papers and documents have been presented to the Session by Geo. D. Phelps, a member of this church, in relation to certain matters of variance between him and Wm. E. Dodge, also a member of this church, desiring the official action of the Session thereon; the Session, without in any way committing themselves to any future action in this case,\* do hereby

"Resolve, That the said matter, together with the said papers and documents, be referred to a committee consisting of Elders Ketchum, Hartley, and Kingsley, with power to confer with the said brethren separately and jointly, with a view to a reconciliation of the matters in difference between them, and report thereon to the Session. Adjourned," &c.

The next minute is October 20th. \* \* \* "The committee appointed to confer with Messrs. Phelps and Dodge, reported that they had been unable to accomplish the object for which they had been appointed.† The report was adopted, and the committee discharged. Adjourned with prayer," &c.

Next meeting, October 29th. \* \* \* "The communication of Mr. Geo. D. Phelps having been called for, it was read and discussed up to the hour of adjournment, without any action being taken thereon. Adjourned," &c.

November 4th, 1862. \* \* \* "Session resumed the discussion of the communication of Mr. Geo. D. Phelps, but without coming to any conclusion,‡ gave way to an adjournment with prayer."

December 12th, 1862. \* \* \* "The Moderator presented two communications § from Mr. Geo. D. Phelps, bearing date December 11th and December 12th, which were read and placed on file. Adjourned," &c.

December 17th, 1862. \* \* \* "Present, Rev. Wm. Adams, D.D., Moderator, Elders Hartley, Benedict, Ketchum, Wood, Kingsley, Lane, Trask, and Bull. Opened with prayer. The minutes of the previous meeting were read and approved. The Moderator presented a further communication § from Mr. Geo. D. Phelps of this date, which was read and placed on file. Session then resumed the consideration of the several communications of Mr. Phelps in reference to Mr. Dodge, which resulted in their unanimously adopting the following resolutions:

"Resolved, That in view of all the circumstances of the case, and in the exercise of the discretion enjoined upon the Session in our Book of Discipline, it is inexpedient for the Session to entertain the charges and specifications of Mr. Phelps against Mr. Dodge, and that the same are hereby dismissed.

\* Notice how guardedly my charges and the nine accompanying documents of proofs, confessions, &c., &c., are spoken of simply as "a communication;" and then how carefully, in the following resolution, it is intimated to Mr. Dodge that he need not fear "any future action." Could he have been better encouraged to that contumacy which he afterwards manifested?

† For further explanation of this, see pages 39 and 50.

‡ This adjournment was to allow Brother — to make that final effort, in which he succeeded in getting the agreement signed by the parties and witnessed, and which Mr. Dodge the next day repudiated and destroyed. See the agreement following.

§ See these several letters immediately preceding. No formal notice was taken of either, although one contained new charges and specifications. 2



"Resolved, That the Clerk be authorized to communicate the foregoing decision to Mr. Phelps."

[The expediency of preparing a minute to accompany the above resolutions was deferred to the next meeting of Session for consideration.]\*

December 22d, 1862. \* \* \* "In accordance with the suggestion made at last meeting of Session, it was *Resolved*, That a committee be appointed to prepare a minute or reference to the resolution adopted at that time, in the matter of Messrs. Phelps and Dodge, and report thereon. Messrs. —, —, and — were appointed the committee. The Moderator presented a communication from Mr. Geo. D. Phelps, dated 20th inst., notifying the Session of his intention to appeal from their decision, in his matter with Mr. Wm. E. Dodge, to the Fourth Presbytery of New York, and requesting a copy of all the proceedings had by the Session in that matter—which was read and placed on file; whereupon it was *Resolved*, That the Clerk be authorized to furnish Mr. Phelps with copies of the proceedings, and all papers referred to therein, which he may desire.

"*Resolved*, That the Clerk communicate to Mr. Phelps the foregoing minute.

"Adjourned with prayer to Friday evening, 26th inst."

December 26th, 1862. "Present, Rev. Wm. Adams, D.D., Moderator; Elders Benedict, Ketchum, Wood, Kingsley, and Bull. Minutes of previous meeting read and approved. The committee appointed to prepare a minute in reference to the resolution adopted on the 17th inst.—in the matter of Messrs. Phelps and Dodge—presented their report, which was accepted and adopted, and is as follows; viz." \* \* \*

The minute, here omitted, covers two pages of foolscap, and is the same referred to in the introduction, and also in the following appeal and complaint, as the one adopted nine days after the case was dismissed.

The preceding paragraph, attached to the minute of 17th December, and now in brackets, was interlined, in pencil only, into the minute of December 17th, —after that minute had been approved and the next one entered upon the regular book. The *original* book was called for, and these facts all shown and explained to Presbytery; but they took no further notice of it. Subsequently, viz., on the 7th February, I received another amended minute, of equal, or greater length, over the date of 29th January—*more than forty days* after the case was dismissed by Session, and ten days after my appeal and complaint had been so strangely rejected by Presbytery. Of course neither of these supplemental or amended minutes, however kindly designed by their authors, are entitled to any place here or upon the books of Session; any more than any other minute upon the same subject, which may be adopted six months or six years hence; and if, upon review of those records, Presbytery or Synod do not order them *expunged*, there can remain but very little respect for the proceedings of either of those judicatories.

*All the foregoing minutes and documents* are regularly certified by the Stated Clerk as correct, and as having been before Session for consideration.

With the best advice and assistance I could obtain *out* of the Fourth Presbytery of New York (I did not suppose it was proper for me to consult with or to prejudice the minds of those who were to be the judges in the case; although I afterwards found that my opponents had done so); I prepared and submitted to that body, in due form, the following "Appeal and Complaint" and "Supplemental Complaint"; but without much encouragement that I

\* This paragraph, now in brackets, is the one in the original book of Minutes, interlined into the foregoing resolution, in pencil—five days after that resolution had been approved and served on me—and before referred to as "interpolated minutes."

should obtain any satisfactory results short of the Synod of New York and New Jersey. Indeed, it was more than once intimated to me, that I should have to go *through* Dr. A.'s Presbytery, to find any proper redress for my wrongs.

### APPEAL AND COMPLAINT TO PRESBYTERY.

TO THE REV. CHARLES H. PAYSON,

NEW YORK, January 8d, 1863.

*Moderator of the Fourth Presbytery of New York:*

REV. AND DEAR SIR: The undersigned respectfully represents, that on the 19th of December last, he received from the Clerk of the Session of Madison Square Presbyterian Church a paper, of which the following is a copy, viz :

"GEORGE D. PHELPS, Esq.:

"NEW YORK, Dec. 18th, 1862.

"DEAR SIR: I am authorized by the Session of the Madison Square Presbyterian Church to communicate the following resolution to you, passed last evening:

"*Resolved*, That in view of all the circumstances of the case, and in the exercise of the discretion enjoined upon the Session by our Book of Discipline, it is inexpedient for the Session to entertain the charges and specifications of Mr. Phelps against Mr. Dodge, and that the same are hereby dismissed."

"Attest,

"FREDERICK BULL, *Stated Clerk*."

The undersigned begs leave to *appeal* from this decision, and to *complain* of the action of the Session in the case, for the following reasons, viz :

*First*, because the record or minute of said decision is informal and incomplete, inasmuch as it does not properly designate either party to the complaint referred to; nor does it give the reasons for the said decision "at length," as is enjoined in our Book of Discipline, chapter iv, section xxiii.

*Secondly*, because no proper or fair investigation of the said charges was ever had, no opportunity ever having been given to the undersigned to appear in person to explain, or with witnesses to testify in the said case, as was often requested by him. (See his several communications to the Session, now referred to Presbytery.)

*Thirdly*, because there was, as appears to the undersigned, a manifestation of great prejudice and partiality in the case on the part of certain members of the Session; first, in that while the said charges were virtually acknowledged by the said Dodge in a correspondence (copies of which were before Session, and will be referred or submitted to Presbytery) twice commenced by the undersigned, to effect a reconciliation upon Christian principles—and while in that correspondence the undersigned made various and repeated offers for a reference of all matters of difference to the arbitrament of mutual Christian friends, which the said Dodge persistently declined, no notice is taken by the Session of any of these facts, and their decision is rendered and recorded without any reference to these conciliatory acts; and 2dly, in that while my said charges and complaints were under consideration, namely, on or about the 5th day of June last, in conformity to my suggestions in my communications to Session, they appointed a committee of three of their own number "to confer with the said brethren separately and jointly, with a view to a reconciliation of the matters in difference between them, and to report thereon to the Session;" and while, at the request of the said committee, I cheerfully met with them, and would gladly have met with Mr. Dodge, and while I promptly assented to their every expressed request, and offered and stood ready to do anything which should be indicated by said committee as my duty to do, with a view to a settlement and reconciliation with the said Dodge, and while the said Dodge declined all such friendly and Christian overtures, and persistently rejected all such means of reconciliation, by refusing to meet either the committee or me, and while these facts were all stated to, and fully known to the Session, their minutes, under date of October 20th, only show the record "that they (the committee) had been unable to accomplish the

object for which they were appointed." ("The report was accepted and the committee discharged,") and the Session thus concealed or ignored all these important facts in their proceedings, and left it to be inferred that the undersigned was wholly, or mainly, or equally guilty of contumacy, and of a refractory disposition, and equally amenable to the discipline and censure of the church, as is enjoined in our Book of Discipline, chap. iv, secs. 9 and 10; and by the same acts the Session withholds from the undersigned the credit, to which he would seem to be entitled, for his known willingness *at all times* to adjust all these unhappy differences by reference to mutual Christian friends. In proof of all of which the undersigned refers to the Minutes of Session, and to the testimony of Elders Ketchum, Hartley, and Kingsley, and other members of said Session. And the undersigned especially and earnestly complains of the aforesaid action of the said Session, and respectfully asks that their said partial and unjust action may be corrected, and that their minutes may be ordered to be amended and recorded so as to truly and fairly represent the proceedings in the case. And 8dly, in this, that subsequently while the said charges were under consideration, viz., on or about the 6th day of November last, their further discussion was postponed to allow one of the brethren, informally, to make another and final effort for a friendly adjustment of the said difficulties; and that while, after much kind and long-continued effort on the part of said brother, a plan of reference was agreed upon, reduced to writing and signed by all the parties, and which was subsequently annulled and destroyed by the erasure of his name by the said Dodge, without the consent or knowledge of the undersigned, and the peremptory closing of the said negotiations by the said Dodge in writing, offering therefor reasons which did not exist, and mistating my position in the case; and that after said facts were made known (verbally reported) to the said Session, no reference to the same appears upon their minutes; but the whole is ignored, and the subsequent decision of Session is rendered as if none of these conciliatory acts of the undersigned, and none of the refractory and contumacious acts of the said Dodge, had ever come to the knowledge of the said Session. In proof of these last allegations, should it be required, the testimony of the brother above referred to, and other members of the Session, will be offered, and reference will be made to the memoranda and correspondence in the hands of the said brother and myself, and to the Minutes of Session.

*Fourthly*, because the said decision of Session is unjust and greatly injurious to the undersigned, and unauthorized by the Book of Discipline, which nowhere "enjoins" an unlimited and unqualified plea of "inexpediency" to govern decisions in such cases.

*Fifthly*, because the reason assigned for such decision, viz., "in view of all the circumstances of the case," &c., is, without some qualification, calculated to do great wrong, and to bring reproach and contempt upon the Church of Christ, inasmuch as it leaves it for each one to imagine and assign reasons injurious to the undersigned, or Mr. Dodge, and prejudicial to the honor of the church, as will be more fully suggested to Presbytery by the undersigned.

For all the foregoing reasons, and for such other causes, explanations, and evidence as will be submitted, the undersigned *complains* of the actions and minutes of said Session as unjust and very injurious to his Christian honor and reputation, and reproachful to the Church of Christ; and he *appeals* from its said decision to the said Fourth Presbytery of New York, and asks of that reverend body to reverse the said decision in the court below, to order a correction of their records and minutes, and to take such further action in the premises as will vindicate the Christian honor of the undersigned, and save the Church of Christ from further contempt and reproach.

I am, reverend and dear sir,

With very great respect,

Yours, &c.,

GEO. D. PHELPS.

## ' SUPPLEMENTAL COMPLAINT TO PRESBYTERY.

REV. CHARLES H. PAYSON,

NEW YORK, January 10th, 1863.

*Moderator of the Fourth Presbytery of New York :*

REV. AND DEAR SIR: Having yesterday received from the Session of the Madison Square Presbyterian Church, the minutes of their proceedings in the case of my charges against Mr. W. E. Dodge, it now becomes my duty, in consequence of the numerous irregularities and errors in said proceedings and minutes, injurious alike to my Christian honor and to that of the Church of Christ, to submit the following additional complaints, which you will please consider as supplemental to my appeal and complaint submitted to you on the 3d inst., and to be laid by you before the Fourth Presbytery of New York

FIRST. I complain, that while I submitted to said Session specific and grave charges and complaints (and, as their minutes say, *in due form*), with the simultaneous presentation and offer of abundant testimony to sustain them—embracing no less than twelve distinct communications and documents—their minutes refer to them generally, *only* as “the communication of Mr. Geo. D. Phelps,” and once only as “certain papers and documents \* \* \* in relation to certain matters of variance between him and Wm. E. Dodge,”—thereby ignoring and suppressing from their records the important fact that grave charges had been presented by me against Mr. Dodge; and then, when resolving to appoint a committee to confer “with said brethren,” they take pains to record that “the Session, without in any way committing themselves to any future action in this case, do hereby resolve,” &c. (see Minutes of June 5th), thus manifesting their partiality and their early determination not to enter upon an investigation of the case, greatly to my prejudice, and to the reproach of said Session.

The subsequent corresponding action of the Session, in not entering upon their Minutes the report of the Committee so appointed, “at length,” as enjoined by our Book of Discipline, was referred to in “my appeal and complaint,” of which this is a supplement, and to which I now refer.

SECONDLY. I complain, that after the Session had, without any reasons assigned, declined to entertain my charges against Mr. Dodge, and had formally “dismissed” them, and had served on me official notice of their said decision without reasons, and I had presented to them and they had received my formal notice of intention to appeal from their said decision, they subsequently, viz., on December 22d, five days after their said decision was rendered, and the case was dismissed, and three days after my notice of appeal was served upon them, reopened the case, and appointed a committee “to prepare a minute or reference to the resolution,” &c., &c.; after the entry of which minute of the meeting of December 22, there were interpolated in the minute of December 17, *in pencil*, the words following, viz.: “The expediency of preparing a minute to accompany the above resolution was deferred to the next meeting of the Session for consideration;” and upon the 26th following, or nine days after the said decision was rendered and the case was dismissed, the said committee reported to Session a “minute or reference,” which was approved and adopted, and to which I beg the attention of Presbytery as it now stands upon the records of said Session.

In proof of all the specifications in this complaint, I refer to and offer the said book of minutes, and the testimony of Mr. Frederick Bull, Stated Clerk of Session, and the several Elders, members of said Session.

THIRD. I complain of the great inaccuracy of the aforesaid supplemental minute, and of its lamentable misrepresentations of the facts in the case referred to—and of the great wrong and injustice thereby done to me, and to the honor of the Church of Christ.

1st, in this: That the assertion in the said Minutes, that “the charges in question are based upon a certain report made in the year 1857 by the managers (of whom Mr. Dodge was one) of a commercial corporation to its stockholders,” &c., &c., is a statement wholly unsustained by the facts as they exist, and as they were clearly and explicitly stated by me in my said complaints, as then and now in the possession of Session.

2d. The allegation that I had "failed in my efforts for an adjustment of my alleged grievances before the Board of Managers," &c., is equally incorrect and unwarrantable, and insinuates actions and motives on my part which never existed.

3d. The further statement in the said Minute that "the session made the appropriate efforts towards a reconciliation of those brethren without success," without stating the fact well known to the Session—that Mr. Dodge was wholly responsible for this failure, he alone being contumacious and refractory, and he alone refusing to meet and treat with the committee appointed for that purpose, is a great manifestation of partiality, and injustice to me.

4th. The expression in the same minutes of the continued "confidence of the Session in the Christian character of both these brethren," while the grave charges "duly submitted" by the one against the other, with their appropriate proofs and tender of witnesses, are still in the hands of the Session uninvestigated, seems to be not "in accordance with any discretion enjoined in our Book of Discipline."

While the thought cannot for a moment be entertained that any considerable number of the said Session would knowingly and willingly so misrepresent the facts so clearly and specifically presented as were my charges against Mr. Dodge; yet all must admit that such carelessness in their statements, so many errors and omissions in their records, and such failures to avail themselves of information and evidence so constantly pressed upon them, show most conclusively that no "careful consideration of the subject" could ever have been had; and justify me in asking that all of the said Minutes after the resolution dismissing the case, including the words interpolated, as herein explained, may be expunged from the records of the said Session; or failing to grant me this, that the said records may be ordered to be so revised and corrected as to conform to a true statement of the facts in the case, and to a fair representation of the proceedings of the said Session; and the undersigned further requests that Presbytery will adopt such other action in the premises as will secure to him that relief and justice of which he believes he has been deprived in the court below.

I am, reverend and dear sir, with very great respect,

Yours,

GEO. D. PHELPS.

Presbytery being especially convened to adjudicate the foregoing appeal and complaints, disposed of the matter very summarily, as will appear from the following minute of their proceedings, furnished me by their Stated Clerk—sufficient comment upon which will be found in the following notice and reasons for "appeal and complaint" to the Synod of New York and New Jersey:

#### MEETING OF FOURTH PRESBYTERY.

MADISON SQUARE CHURCH, *January 19th, 1868.*

Presbytery met at the call of the Stated Clerk, and was opened with prayer.  
Present:

*Ministers*—J. Holmes Agnew, D.D.; William Adams, D.D.; S. H. Cox, D.D., L.L.D.; G. L. Prentiss, D.D.; O. S. St. John, J. Spaulding, E. O. Gillette, H. M. Field; F. W. Williams, J. Parsons Hovey, D.D.; Joel Parker, D.D.; E. N. White, H. B. Smith, D.D.; C. H. Payson, S. W. Bailey, T. S. Hastings, A. S. Freeman, J. P. Lestrade.

*Elders*—Charles H. Trask, from Madison Square Church; F. H. Bartholomew, from Central Church; A. W. Morgan, from West Church; David Stevens, from Manhattanville Church; Amos Briggs, Haverstraw.

"General Rules for Judicatories," in the appendix to the Book of Discipline, were adopted for the government of Presbytery for this session.

A Judicial Committee, according to Rule XL, was appointed, consisting of G. S. Prentiss, D.D.; J. P. Hovey, D.D.; H. B. Smith, D.D.; S. H. Cox, D.D., L.L.D.; J. Spaulding, and F. H. Bartholomew, Elder.

Rev. J. B. Dunn presented a letter of ordination from New York and Brooklyn Association, and after answering the constitutional questions, was received a member of Presbytery.

Mr. G. D. Phelps appeared to prosecute an appeal from Madison Square Church Session, and Oliver E. Wood, Jesse W. Benedict, and George W. Lane appeared as Commissioners from the Madison Square Church.

The Moderator laid before the Presbytery the appeal and complaint of Mr. Phelps, which was ordered to be put into the hands of the Judiciary Committee.

Mr. Phelps attempted to address Presbytery, but was called to order by the Moderator. He appealed; but Presbytery sustained the decision of the Moderator.

Presbytery resolved itself into an interlocutory meeting. The Judiciary Committee made a report, which was as follows:

The Judicial Committee, in this matter, deem the following principles and facts to be relevant, as well as important and obligatory:

1. An appeal or complaint presupposes a trial on the merits of the case, with a result; which result is identified with the "decision," from which alone the transfer of the case to a superior jurisdiction is recognized by our book.

2. As there has been no trial on the merits of the case, no appellate jurisdiction can as yet be invoked.

3. When a case is preferred to the court of first resort, said court is to consider whether it is proper to institute trial or to dismiss it, as our Book of Discipline, chapter iv, section iv, and in other places, both recognizes and enjoins.

4. In the exercise of Christian discretion and prerogative, the court below appears to have solemnly and unanimously determined against judicial action on its merits, and so have recorded their opinion with sufficient fulness, as previous to any action on the merits of the case. Hence, the committee find and recommend that the matter be dismissed.\*

The above report was accepted, and on the motion to adopt, the appeal of Mr. Phelps and the records of the Madison Square Church Session were read. The appellant and the representatives from the Session were heard, and the members of Presbytery, after which the question was taken, and the report of the committee was adopted.

Mr. Phelps gave notice that he would bring this matter before Synod.

The minutes were read and approved, and Presbytery adjourned to the call of the Stated Clerk. Closed with prayer.

[Signed]

J. PARSONS HOVEY, *Stated Clerk.*

\* Or thus:—The judicious public, in this matter, will deem the following principles and facts to be relevant, as well as important and obligatory:

1. Respect for the decision of any judicatory presupposes an impartial exercise of an honest intelligence, with a result—which result is identified with justice—upon which alone confidence and submission are recognized and enjoined by our *Book*. Deut. xvi, 18, 19, and 20.

2. As there has been no impartial exercise of an honest intelligence, neither respect, confidence, or submission can as yet be invoked.

3. When a cause is appealed to a court of second resort, said court is not to consider how it may evade an investigation and dismiss the case, but is *bound* to enter upon a judicial consideration, as our Book of Discipline, chap. ix, sec. 1, and chap. vii, sec. 3, § 1, 2, 8, and 9, and in other places, both recognizes and enjoins.

4. In the abuse of Christian discretion and expediency, the said court appears to have frivolously determined against judicial action on its merits, and so have recorded their determination with sufficient fulness, as previous to any action on the merits of the case. Hence, we find and recommend that this matter be exposed.

The above report will be accepted and adopted by at least 7 against 3 of any impartial community.

*Notice of Appeal and Complaint from the foregoing Proceedings of Presbytery, to the Synod of New York and New Jersey, duly served upon the Moderator of Presbytery, January 28, 1863.*

NEW YORK, January 28th, 1863.

To the Fourth Presbytery of New York, Rev. CHAS. H. PAYSON, Moderator, &c. :

REV. AND DEAR SIR: I have received from the Stated Clerk of your Presbytery a certified copy of the minutes of their proceedings at their meeting on the 19th inst., of which the following are extracts, viz. : \* \* \*

[See the minutes of Presbytery (here omitted), immediately preceding.]

Referring to the said minutes and to my notice of complaint, therein recorded, I now beg, on behalf of myself and the minority of said Presbytery, or of any who may feel scandalized, aggrieved, or injured, at or by the irregular and unjust proceedings therein recorded, respectfully to submit a more formal notice of intention to appeal, complain, or refer to the Synod of New York and New Jersey, from, against, or concerning the said decision, acts, or proceedings, or the refusal or neglect to proceed or act, on the part of said Presbytery, in the appeal, complaint, or matter of reference of George D. Phelps against the Session of Madison Square Church, their acts and proceedings, or their omission to act or proceed: *Or*, by any other proper means, to carry my said appeal, complaint, or matter of reference, to the next court above, viz., the Synod of New York and New Jersey, and to ask of that reverend body a consideration, investigation, reversion, or such other action or proceedings as they may deem wise or proper in the premises, so as to relieve me from the injustice and injury done by the said Presbytery; and for such further action or proceedings as may be deemed necessary and proper to deliver and save the church and its judicatories from further odium and reproach, and for the following reasons, viz. :

FIRST. Because of the inaccuracy and informalities of the minutes of said Presbytery, especially in failing to record the important fact that debate was cut off by a call for the previous question, which was put, and further discussion thus precluded.

Without noticing now the extraordinary action in the appointment of a judicial committee, or the objections which, if permitted, would have been made to the remarkable construction of that committee in regard to the relationship of some of them to the defendants and the accused party (which in a civil court would have excluded them from the jury-box),

SECONDLY. I complain that the report of the committee, and the acts of Presbytery based thereon, is a great wrong and injustice to me: 1st. In that the judicial committee so appointed did not conform to, but openly transgressed their authority, as particularly defined in the 40th of the general rules adopted by Presbytery as their authority and rule of action for that session, which defines the duty of said committee to be "to digest and arrange all the papers," &c. ; in violation of which the said committee neither arranged nor produced *any* papers, but assumed to dispose of the case by prejudging the meaning of words and terms without reasons or precedent, thus disregarding and prejudicing my rights. 2d. In that the said action shut out from all knowledge of Presbytery my charges and complaints against Mr. Dodge, with the proofs thereof, and other testimony in possession of Session, and which should have been read to Presbytery as is enjoined in chap. vii, sec. iii and sub-sec. 8th, and elsewhere in our Book of Discipline. 3d. In that, so far as it has authority or power, the action of Presbytery precludes me from any resort to a higher court, and from all relief in or through the church. The Presbytery assumes that there can be no appeal or complaint because there was no "decision," or any "trial of the case upon its merits." This seems to be a mere verbal quibble unworthy so august and reverend a body, inasmuch as the determination of the Session *not* to try and issue the case was one of the

specifications in my complaint, and which, in the legal and usual meaning of the term, is a "decision." *The Session themselves* term their action a "decision." In the same minutes in which it is recorded they instruct their Stated Clerk "to communicate the foregoing decision to Mr. Phelps," and Presbytery knows well enough that my grievance was the *action* of Session, by whatever name it might be called; and Presbytery erred in confining the word "decision" to a final "sentence" or "judgment," or to the final result of a "trial of a case upon its merits," for it covers wider ground. In Book of Discipline, chap. iv, sec. 23, it is declared that "the reasons for all decisions, except on questions of order, shall be," &c., in which the settlement of a point of order is called a "decision." See also the minute of Presbytery above quoted, in which it is stated, "He appealed, but Presbytery sustained the *decision* of Moderator," without argument or any trial upon its merits. See also General Rules adopted by Presbytery for their government on that occasion. In the 9th, it is "declared that the Moderator shall *decide* questions of order, subject to an appeal," &c. Also the 17th, 18th, 19th, and 20th rules, in which the same signification is given to the term, and the 29th, in which it is stated, "Any member may *appeal* to the judicatory from any decision of the Moderator." Much more is the term "decision" applicable to the refusal of Session to do anything at all.

THIRDLY. I appeal and complain, because even if the appeal ought to have been dismissed as irregular and informal, yet both the complaint and supplemental complaints being different (see decisions in Digest), remained, and might and *ought* to have been investigated; especially as my supplemental complaints were against the interpolated minutes of Session, inaccuracies and misrepresentations on their records, and various other important and independent matters, not regarded by Presbytery and not excluded by the technical objections reported by their Judicial Committee.

FOURTHLY. Because the reasons assigned by the Presbytery for dismissing my appeal and complaint, are of such a nature as to prejudice my case, and seem to add insult to injury. They refer to Book of Discipline, chap. iv, § 4, implying, or improperly insinuating, that I am known to be guilty of the very imputations of which I was originally falsely accused by my calumniator, which I strenuously deny, and have in vain called upon my accuser to prove or justify; and which the Session themselves regard as an unfounded accusation; having, nine days after they had dismissed the case, declared in their minutes submitted to Presbytery, "that they had continued confidence in my Christian character," and which declaration was unanimously agreed to; yet Presbytery forestalled an investigation, and assumed that I was such a person, whereby great wrong and injury were done to me by them.

FIFTHLY. Because, upon a count being called, a large number, more than one half of those announced as present, abstained from voting, only one third voting for the report. And the undersigned believes, that under the circumstances, the vote is not a fair representation of the real opinion of Presbytery.

SIXTHLY. Because, 1st, the action of Presbytery in sustaining the proceedings of Session by a resort to such quibbles and technicalities, is opposed to all correct ideas of justice and equity, as well as in direct conflict with the Book of Discipline, chap. i, sec. 1, 2, and 3; and chap. iv, § 1, in which it is enjoined, "When all other means of removing an offence have failed, the judiciary to which cognizance of it properly belongs *shall judicially* take it into consideration." Also, chap. iv, § 10, 15, 16, and 23. Also the introductory to chap. vii, § 1st and 2d, in which it is said—"Every *kind* of decision, &c., may be carried up,"—chap. vii, sec. iii, § 1 and 2, in which "all persons who have *submitted* (that is, "yielded to," "conformed," "complied to") a regular trial in an inferior, may appeal to a higher judicatory." Also, § 8, 9, and 10, by all of which the proceedings of Presbytery stand condemned, and nowhere else jus-



tified. 2d. The action of Presbytery is, or might be, a great wrong to Mr. Dodge (if innocent), and every other accused party in similar circumstances, inasmuch as it leaves it *only* to be inferred that the determination of both Session and Presbytery in such a summary and unusual way, to dismiss the charges and appeal, &c., was based upon a belief or fear that a "trial on its merits" would result in a conviction of the accused party; especially as my appeal and complaint both showed, that there were in possession of Session, and which should have been laid before Presbytery (chap. vii, sec. iii, § 8,) confessions in writing and other documentary proofs abundant to sustain all the principal charges made by me against Mr. Dodge. And, 3d, said action is calculated to sanction crime upon crime, inasmuch as it encourages the use of wealth, and powerful social influences to defeat a "trial of a cause upon its merits in a court of first resort," by the assurance given that in such a case there can be no appeal or complaint to any court above; and so it also gives its authority to the too common opinion that only "poor men and small crimes can be prosecuted to a judgment;" a conclusion that ought not to be justified by any ecclesiastical judicatory.

SEVENTHLY. Because the dismissal of the case by Presbytery (like the refusal of the Session to try and issue it) amounts to a denial of justice. It is the boast of the Presbyterian system, with its series of appellate courts, that it secures the rights of its humblest members (see Book Dis., chap. vii, § 1); but the undersigned, in seeking relief from the unjust imputations and malicious and injurious slanders of a professed Christian brother, is unjustly denied redress in two of our ecclesiastical courts,—denied even the heaven-born right to appeal or complain; and is compelled humbly to invoke the mercy or grace of the reverend Synod of New York and New Jersey; and if, technically, no appeal can lie, then he complains; and if no complaint can be heard, then he respectfully begs that some other way may be opened, whereby he may obtain that protection, deliverance, and justice, of which he thinks he has been wrongfully denied in the Fourth Presbytery of New York; and he further asks of the Synod of New York and New Jersey, that they will take such further action as will vindicate the Church of our Lord Jesus Christ and its judicatories from all further odium and reproach.

Respectfully submitted,

GEO. D. PHELPS.

*The following supplemental appeal and reasons were suggested too late to be embraced in the foregoing:—*

*To the Fourth Presbytery of New York:*

REV. CHARLES H. PAYSON, *Moderator:*

The following action was taken by the Fourth Presbytery of New York, at their meeting held in Madison Square Presbyterian Church, January 19th, 1863, in relation to an appeal and complaint laid by me before that body. \* \* \*  
(See *minutes of meeting of Presbytery*, page 43.)

From this action of the Presbytery, I hereby give notice of my intention to appeal and complain to the Synod of New York and New Jersey, at its next regular meeting, and for the following reasons:

1. Because such action or opinion is contrary to the letter and spirit of our Book of Discipline. The Presbytery take the ground that "an appeal or complaint" presupposes a trial on the merits of the case, with a result,—which result is identified with the decision, from which alone the transfer of the case to a superior judicatory is recognized by our Book. But the Book asserts in chap. vii, sec. ii, and in the plainest and most unequivocal language, that "*every kind of decision*" which is formed in any church judicatory, except in the highest, *is subject* to the review of a superior judicatory, and may be carried before it in one or the other of the four following ways:

namely, by "general review and control," by "reference," by "appeal," and by "complaint." The action of the Presbytery denies this, and affirms that the decision of the Session not to entertain the charges preferred by me against a member of the Madison Square Presbyterian Church, is one from which no appeal can be taken. I complain of this action:

2. Because it makes a Session, which is a court of first resort, in some of its action an *independent* and *irresponsible* body, which is contrary to the whole economy of the Presbyterian system. If, as asserted by the Presbytery, there is action in that body from which there is no appeal, and of which there can be no complaint to a higher court, then, in that action it is independent of the Presbytery; whereas, the Book subjects *all* its action to the control of the superior judicatory, and makes the Session responsible to that body for all that it does. I complain of this action:

3. Because of its *great injustice*. If, as the Presbytery assert, there can be no appeal or complaint, where there is "no trial on the merits of the case," then, if the Session refuse to entertain any charge or complaint laid before it, there is *no redress* for the aggrieved person. All that the Session have to do is to refuse to try the case on its merits, and there the matter must end. Their refusal to try the case bars all appeal, all complaint, and leaves the individual without any redress. I complain of this action:

4. Because it perverts the meaning of our Book in relation to "the exercise of Christian discretion and prerogative." The Book allows this limited exercise, but the fact that a Session thus "solemnly and unanimously determined against judicial action on the merits of any case," cannot exempt that determination from complaint. If it can, then all that a Session has to do to avoid a troublesome case, is to base their refusal on the ground of Christian discretion and prerogative. I complain of this action, finally:

5. Because it is subversive of the rights and privileges of the members of the Church, and is destructive to the best interests of our denomination. These rights and privileges are secured by the system of appellate jurisdiction which pervades our whole polity, and is the glory of Presbyterianism. Destroy this, and all our security is gone; and our whole system is changed, and is brought down to the level of a repulsive oligarchy, where the rights and privileges of the many are in the hands of a few, and from whose decisions there is no appeal, and from whose action there can be no complaint.

The foregoing additional or supplemental reasons are submitted to be attached to, and apply to my notice of intention to appeal and complain from and against the action of the Fourth Presbytery of New York, to the Synod of New York and New Jersey, in regard to the action of Presbytery, as more particularly defined in my communication of yesterday.

Very respectfully submitted,

[Signed]

GEO. D. PHELPS.

NEW YORK, January 29th, 1863.

I now submit a copy of the written agreement for settlement with Mr. Dodge, with so much of the correspondence only as is necessary to a clear understanding of the case; omitting all the memoranda and negotiations preceding the agreement signed; and suppressing also the name of the good brother mediator in the case. Any one either curious or dubious, can see the whole history of that transaction satisfactorily authenticated.

NEW YORK, December 8th, 1862.

As a result of the correspondence and negotiations between Messrs. Geo. D. Phelps and W. E. Dodge through Mr. —, in relation to the unhappy difference between

these brethren, the following plan and conditions of settlement are agreed to, and are subscribed by them in good faith.

1st. Five Christian gentlemen who are selected, viz., Mr. W. A. Booth, David Hoadley, Jasper Corning, Rev. Dr. John J. Owen, and Charles A. Buckley, are to be invited to sit as a conference to hear the respective statements of Messrs. Phelps and Dodge; and on the following terms and conditions:

2d. In no event shall the conference with Messrs. Phelps and Dodge extend beyond one meeting.

3d. Mr. Phelps may submit in writing his complaints against Mr. Dodge, in doing which, he shall not occupy more than twenty or twenty-five minutes, and Mr. Dodge shall follow, submitting his reply or complaints in writing if he chooses, occupying not to exceed the same time, which papers are then to be left with the chairman of the committee, either of whom may then ask Messrs. P. or D. any questions touching the statements made, &c.

Mr. Phelps is then to follow in remarks not over thirty (30) minutes, and Mr. Dodge to follow, speaking not to exceed the same time, with privilege for each to rejoin not longer than ten (10) minutes each. Neither party shall be interrupted while addressing the committee, to whom all their remarks are to be addressed.

4th. The committee shall, as soon as practicable thereafter, decide as to what apology or retraction shall be made by either party, and, under all the circumstances, what each shall do to satisfy the other, and shall so decide without any further reference whatever to other parties, and no other papers shall be handed them than the manuscript submitted to them at the opening. Each party, viz., Messrs. P. and D., shall abide by the decision of the committee or a majority of them, which decision shall be satisfactory, and they shall endeavor to forget and forgive the past, and thenceforward live as becomes good neighbors and Christians.

If the committee make their decision the same evening, Messrs. P. and D. shall in their presence, and at that time, carry it out; and if made subsequently (and it is understood that it shall be at the earliest practicable period thereafter) the committee shall designate a place and time, at which, in the presence of a third party whom they shall also designate, the said decision shall be carried out.

5th. The proceedings or findings of the conference shall be rendered in writing to each party, and shall not be published by either party, but may in good faith be shown to their friends as evidence and in explanation of a reconciliation between them.

It is respectfully requested of the gentlemen consenting to serve in the conference, that from the time of such consent, they abstain from all conversation or reading of anything in relation to this matter prior to the meeting or afterwards, excepting the manuscripts aforesaid; and it is further the wish of the parties subscribing hereto that their mutual friend, Mr. —, may be present at the meeting, and in their behalf state the origin of the conference, so far as is necessary. Any vacancy in the committee shall be filled by the remaining members, subject to approval of the parties.\*

Witness

[Signed]

WM. E. DODGE,  
GEO. D. PHELPS.

This is a correct copy of the paper signed by Messrs. Phelps and Dodge.

[Signed]

NEW YORK, December 20th, 1862.

[After this was signed by me, Mr. Dodge claimed to have the following supplemental agreement, to which I added my assent as below.]

December 8th, 1862.

DEAR SIR: In signing the paper presented to me this evening, I do so with the distinct understanding that I am to be furnished with a copy of Mr. Phelps's charges and specifications, at least three days before the meeting.

Yours, &c.,

[Signed]

WM. E. DODGE.

\* These parties had not been consulted, but it was hoped they would serve.

Upon which I endorsed, as follows:

"Agreed to with the corresponding understanding, that Mr. Dodge shall, at the same time, hand to me, in writing, all the charges he may have to make against me, with the specifications; and that afterwards no further charges or complaints shall be made or offered by either party."

Thus all preliminaries to a sure, happy, and final settlement of our long pending difficulties were agreed to, and signed, and I was promised a copy of the agreement. The next day I received a request from Mr. W. to call on him at his house, upon doing which I was told that Mr. Dodge insisted upon the further condition, that I should confine my complaints to be submitted to the referees, in the 20 or 25 minutes allotted for that purpose, to what was contained in our correspondence of 1860 (see pages 21 to 30). Not recollecting precisely the contents of those letters, I offered to confine myself to the charges then before Session. This not being conceded, I agreed on my return home, to reperuse those letters and determine. I did so—and although I found that much of my case would thereby be sacrificed, I decided to yield this new demand also; and to guard against any further dispute or question as to the contents of the letters, I proposed to submit the letters themselves, as per the following note sent to Mr. W——, the same day.

198 MADISON AVENUE, NEW YORK, *December 10th, 1862.*

— W —, Esq.:

DEAR SIR: I have just returned from the city—have given your last proposition consideration, and will agree that the correspondence between Mr. Dodge and myself in reference to our difficulties, shall be submitted to the referees or committee, as the statement of the case between us, and the sum of all our complaints against each other; no further charges or complaints to be made on either side; and that each shall have the same time for argument, illustration, or appeal. Neither party occupying altogether more than one hour and a half.

If this is acceptable to Mr. Dodge (and I think it meets your statement of his wishes), let it be endorsed upon the present agreement; but I beg of you not to make any further suggestions of changes to me, in my present state of health.

Should *all* my propositions be finally declined, let Mr. Dodge submit through you his ultimatum, to which I will promptly signify my assent or dissent, and that must terminate these negotiations.

Very respectfully yours, &c.,  
Geo. D. PHELPS.

I thought I was thus yielding everything asked, and again supposed all preliminaries settled.

The next morning I received the following: which, except for certain former indications of insincerity on the part of Mr. Dodge, would have occasioned great surprise.

257 LEXINGTON AVENUE, *December 10th, 1862, 11½ P. M.*

GEO. D. PHELPS, Esq.:

MY DEAR SIR: By the inclosed copy of note just received from Mr. Dodge, you see the object I have so long desired and prayed for is *not* to be accomplished, and all negotiation is at an end.

It is proper I should say your proposition to submit all the correspondence between you and Mr. Dodge, is not that which I made to you this morning,\* and I very much regret that it was not accepted by you; but it is too late.

I hope this disappointment, as I view it, will not add to your illness, which I am very sorry to know of. Regretting deeply the turn matters have taken.

I am very truly yours,  
[Signed] — W —.

\* The proposition here referred to by Mr. W——, was verbal. I claim—as will be seen in my foregoing letter—that my reply was a literal acceptance of it. No further explanation was made to me; and no question or doubt on that point existed. I did not use the term "all" the correspondence; but simply "the correspondence"—about which we had been talking.

I return a copy of your letter to me this P. M. It is perhaps proper I should keep the original, as I have Mr. Dodge's, but will hand it to you if you want it. Both signatures to the agreement are erased. I also enclose copy of the memorandum read to Mr. Dodge, and your proposed reply.\*

— W —.

WEDNESDAY EVENING, *December 10th, 1862.*

— W —, Esq. :

DEAR SIR: I find by the letter you read me from Mr. Phelps, that he now proposes to submit all our correspondence† in place of the proposition you stated this morning, and it is evident to me that the conference will in that case take a very different course from what I had any intention of entering upon; and I feel constrained to decline, and thanking you for the kind interest you have taken, and as Mr. Phelps requests that no further suggestions be made, ‡ I can only regret that after all your efforts nothing can be effected.

Respectfully yours,

Signed,

WM. E. DODGE.

198 MADISON AVENUE, NEW YORK, *December 11th, 1862.*

— W —, Esq. :

MY DEAR SIR: I have your note of this morning, and while I deeply regret the result announced, I am not much surprised at it. During all your efforts I have had much reason to doubt the sincerity of Mr. D.'s professions.

The matter must now be brought to an issue without unnecessary delay; and I will thank you to give me a copy of all the other propositions which have passed through your hands in this recent negotiation for a settlement with Mr. Dodge.

Thanking you most sincerely for your kind efforts in this matter, and regretting the unfortunate result,

I remain, very truly yours,

GEO. D. PHELPS.

P. S.—In my last note to you I thought I was complying with Mr. D.'s last proposition through you, and I still think I did, unless there was some hidden idea in the mind of Mr. D.

I understood that he insisted that I should confine my complaints to such as were named in my letters to him. In response I offered "to submit the letters themselves, as the statement of the case between us, and the sum of all our complaints against each other, *no further charge or complaints to be made on either side.*" Was not this a perfect compliance with his proposal? Or did he wish for the opportunity to come forward with after charges?

G. D. P.

198 MADISON AVENUE, NEW YORK, *December 12th, 1862.*

— W —, Esq. :

MY DEAR SIR: In my note to you yesterday morning, I asked for a copy of all communications from and to Mr. D. which passed through your hands.

Perhaps you overlooked that request.

I wish particularly the copy of agreement signed by Mr. Dodge and myself, and the supplementary memorandum which accompanied it, with your certification that they were both signed.

The other memorandums would also be desirable, if not too much trouble for you to furnish them. I am sorry to give so much trouble, but having voluntarily begun the good work, I have no doubt you will cheerfully consent to finish it.

I have more carefully reperused your note of yesterday morning, and I am in a little doubt whether you intended any censure upon my course in the late negotiations. When I left you the morning of our last interview, I understood that the only question between us unsettled was, whether I should confine my complaints against Mr. D. (to be presented to the referees) to such as were referred to in our correspondence (of 1860), or whether they should include those also which were laid before the Session of our church. \* \* \*

\* This was Mr. W.'s first effort, being a very brief note, proposed by him for Mr. Dodge to write to me—in the most general terms expressing his regret, and retracting his calumnies against me, and which I consented to accept as a satisfactory adjustment of all our difficulties. Mr. Dodge declined to write me such a note—and the foregoing repudiated agreement resulted from this preliminary action.

† By reference to my preceding letter of same date it will be seen that I said "*the*," not "*all the*" correspondence, and nothing was meant but that which was before Session, the whole substance of which, as will be seen, was in the two letters of March, 1860 (see page 21), and to avoid any new questions about the contents of these letters, I proposed to submit the *letters themselves*. I cannot think Mr. D.'s objection on that score was sincere.

‡ By reference to my foregoing letter to which this refers, it will be seen that I distinctly ask if Mr. Dodge should decline "all my propositions" that he would "submit his ultimatum," &c. What construction shall be put upon such a misstatement?

I concluded to accede to what I supposed was your proposition. You can judge whether I should feel surprised at the reception of your note, announcing Mr. Dodge's declination and his peremptory termination of the negotiations.

Now witness the dissimulation in Mr. D.'s last note. *While I closed by asking a further proposition from him*, he closes with "and as Mr. Phelps requests that no further suggestions be made," &c.

How do you account for such a palpable misstatement of my note? And yet your note *seems* to imply censure upon me for not doing—what? I do not understand it.

Your statements concerning Mr. D.'s repudiation of the agreements signed, and his proposed modifications, were not submitted to me in writing, and in my then state of mind I may have misunderstood you; but my response *was* in writing, and it indicated plainly what I understood Mr. D.'s proposed changes to be, and my acceptance of them, as well as my request for a further and ultimate proposition from Mr. D., should he, as I rather expected he would, reject all mine; and Mr. D. could not misunderstand my note. How do you account for the result? \* \* \*

Renewing my thanks for all your disinterested efforts to compromise this unfortunate quarrel, and again begging that you will help to hasten it to an issue in the Session,

I remain, very respectfully yours, &c.,

GEO. D. PHELPS.

Several pages of correspondence followed, mainly in reference to the unauthorized erasure of Mr. Dodge's name, and to my claim to a copy of the agreement, &c.; and on the 20th of December I received the following, with the papers therein named:

NEW YORK, December 20th, 1862.

MR. PHELPS:

DEAR SIR: I hand you herewith a copy of the agreement or paper signed by you and Mr. Dodge, with an endorsement, giving the facts as to the erasure of the signature; also a copy of the joint note in relation thereto.

Very respectfully yours, &c.

— W —.

I have furnished Mr. D. also with a copy.

The following is the "endorsement" referred to above, which was written across the copy of the agreement when sent to me; viz., on the 20th of December:

"In consequence of a disagreement between the parties signing this paper, growing out of the construction of the 8d article, and the subsequent verbal propositions relating thereto, Mr. Dodge declined to have anything further to do with it, and erased his signature, and in consequence thereof, I took the responsibility of erasing the name of Mr. Phelps, and have furnished each with a copy.

"(Signed)

— W —."

I think the foregoing conveys a wrong impression, inasmuch as there was never any "disagreement" concerning "the 8d Article." The difference arose wholly upon a new demand made by Mr. Dodge, and from his still further evasion, even after I had yielded to his new terms, as is plainly shown in my foregoing letters to Mr. W—, to which no objection was made till after the action of both Session and Presbytery.

Whether, under the circumstances, it was the right of Mr. Dodge to annul and destroy a written agreement by erasing his own name, without my knowledge or consent—and whether it was right for Mr. W— to permit such erasure of Mr. Dodge's name, and to erase my name also without my knowledge or consent, to a mutual agreement signed by us both, and witnessed by him, are questions which I prefer to leave for others to decide.

#### THE SUPPRESSED REPORT OF COMMITTEE OF SESSION.

In the preceding pages reference is frequently made to this report.

I supposed I had received sufficient assurance to justify me in promising it in this place; but since the foregoing was in type, it has been denied to me. Having failed in a *personal* application to the Clerk of Session, I wrote him an urgent request on 2d February, which he promised to lay before Session.

Having received no answer, I wrote again on the 20th February, as follows:

"On the 2d instant, I requested of you in writing, copies of certain papers belonging to the late proceedings of Session, in my charges against Mr. Dodge, to which I claim to be entitled by the 16th section of chapter iv of Book of Discipline, as well as by the resolution of Session of December 22d, in which you were 'authorized to furnish me with copies of all the proceedings, and all papers referred to therein, which he (I) may desire.' These papers now asked for had been 'referred to,' and are now in your possession as Stated Clerk of Session. I again respectfully ask that you will give me copies of them at my expense, or that you will give me, in writing, your reasons for declining my request. Your *early* reply will much oblige

"Yours very respectfully,  
"GEO. D. PHELPS."

On the 26th February inst. I received the following :

58 WALL STREET, February 25th, 1868.

GEO. D. PHELPS :

DEAR SIR : Your several communications of 2d and 20th instant were laid before the Session on Monday evening last, and I am directed by Session to inform you that your request therein contained is respectfully declined.

Very truly your friend, &c.,

FREDERICK BULL, Stated Clerk of Session M. S. P. C.

Having been subsequently assured that those documents, if in my possession, would be of great service to my cause, and being also well advised that I was entitled to them, I again urged my request in the following communication, which, as will soon appear, was also designed to open the way for the introduction of certain peace measures, kindly suggested, and proposed to the Moderator of Session by a judicious ministerial friend of all the parties, but which were withheld from Session, and other measures substituted in their place :

NEW YORK, 30th March, 1868.

To the Session of Madison Square Presbyterian Church :

BRETHREN : Referring to my two notes of 2d and 20th February, submitted to you through your Stated Clerk, and to your reply of 20th following, received through him, I am now constrained, under advice, to renew and respectfully to urge my request for copies of the report and other papers therein specified.

Those documents are deemed necessary to my case. I could not properly, or with full justice to myself, make up my appeal without them. Besides, they may prove such as to enable me honorably to abandon all further proceedings in reference to Session.

I am well advised that I am entitled to those papers by the 16th section of chapter iv of our Book of Discipline, by precedent and by the former action of Session, as more particularly noted in my previous communications.

I am also advised to give you this formal notice, that I have served upon Rev. Charles H. Payson, Moderator of the Fourth Presbytery of New York, my "notice of *intention* to Appeal and Complain" to the Synod of New York and New Jersey, from and of the decision or action of the said Presbytery, in dismissing my appeal and complaint from and against your action in the matter of my charges against Wm. E. Dodge, as more fully described in said complaint.

I have further to submit to you, that I am recently and credibly informed, that the misconstruction which I had anticipated, has already been given to your action and resolution of December 17th, dismissing my charges against Mr. Dodge.

It has been stated, under circumstances to do me great injustice, that the motives which influenced Session in that action, were based upon the reasons assigned for the exercise of discretion, as specified in section 4th of chapter iv of our Book of Discipline. This also appears to have been so understood by Presbytery, as expressed in the third paragraph of the report of their judicial committee, in which they insinuate against me those very imputations made by Mr. Dodge,—the truth of which I have always strenuously denied,—which I have ever been ready to disprove before Session, and for relief from which my complaints against Mr. Dodge, and my appeals to Session, were made.

I am not willing to believe that Session were influenced by any such unjustifiable

motives as have been attributed to them; indeed, I am well assured that they were not so influenced, and I cannot think that they would be willing that so great injustice and wrong should continue to be done to me, through their action, or want of action.

I have therefore respectfully to suggest, that Session take such action, and so express their opinions by some formal and direct vote upon that point, as shall remove all doubt about their motives, and do away all wrong impressions on the minds of any parties interested.

If your former action was based upon anything objectionable in my Christian character, it is due to me, as well as to the cause of truth, that it should be frankly stated. On the contrary, if no such influences operated upon your minds, it is equally due to me, and to the cause of truth, as well as to the Christian honor of all concerned, that it should be so explicitly stated, that no one hereafter may be either encouraged to misrepresent your motives, or excused for still further aggravating my cause, or widening the breaches already made.

Your early reply to my request and your response to these suggestions, will much oblige

Yours respectfully,

GEO. D. PHELPS.

NEW YORK, April 20th, 1868.

*To the Session of the Madison Square Presbyterian Church:*

BRETHREN: Under date of 30th March, I addressed to you a respectful communication, to which I requested and expected an early reply. Having received no response, I am led to doubt whether Session design to take any notice of my application; and it seems proper, and circumstances require, that I should respectfully inform Session, that without notice of some formal action on their part during the present week, upon the matters submitted by me, I shall conclude that none is intended by them, and I shall be compelled to govern myself accordingly.

Very respectfully, &c.,

GEO. D. PHELPS.

NEW YORK, April 21st, 1868.

GEO. D. PHELPS, Esq.:

DEAR BROTHER: Your letter of the 20th March was duly received and read to the Session. Important duties have so occupied the attention of Session as to prevent an earlier reply.

Your letter renews a request for copies of certain papers, previously specified; advises Session of your having notified the Moderator of the Fourth Presbytery of New York, of your intention to appeal and complain to Synod of the recent action of Presbytery, and ask Session if its former action, in dismissing your charges against Mr. Wm. E. Dodge, "was based upon anything objectionable in your Christian character."

The Session have a sincere desire to meet your wishes, so far as is consistent with duty and a due regard to the best interests of the Church of Christ.

The papers, a copy of which you request, resulted from an unsuccessful effort towards a harmonious adjustment of your difficulties with another brother in the Church. This effort, as was expressly stated to him, and as you were probably aware, had no connection with or reference to any judicial process, but was only designed to secure a reconciliation.\* The effort having failed, the Session are of opinion that they ought not, as a matter of duty, honor, or precedent, with or without the consent of both parties in interest, furnish a copy of those papers to any one, and hence the ground of their former action on this point.

The chapter and section of our laws to which you call our attention, refer to proceedings after actual process is commenced, which we think you will admit was not the case here.† It was from no intention to deny you any right or privilege that the action of the Session was thus taken. The Session, sincerely desirous, however, to meet your

\* Is not this a virtual confession of one of the acts complained of to Presbytery, viz., of informing Mr. Dodge that Session did not mean to act judicially on my complaints, and thus encouraging his contumacy. See pages 40 and 41.

† I make no such admission, either in regard to the application of the "laws" referred to, or to



wishes, as far as is consistent, have instructed the stated clerk to show you or Mr. Dodge the papers in question for perusal.

Upon the third point, the Session respectfully suggest, that its recorded acts, as submitted to you, viz., its resolution of January 12th, and corrected minutes of 29th of same month, fully set forth its action, and adequate reasons therefor, and by no possible construction of language can the minutes be made to do you "great injustice," as it mainly presents facts, and you do the Session justice in "not being willing to believe that it was influenced by any such unjustifiable motives as have been attributed to it." \* The Session, while it deeply regrets such should be the case as you allege, cannot be responsible or accountable for any misconstruction of its actions or motives. Upon no point were the members of Session more united, than in expressing as they did, in their minutes alluded to, their entire confidence in the Christian character of the brethren whose case was before them; and in referring at your request again to the subject, the Session unanimously, cheerfully, and frankly state that their former action was not based upon "anything objectionable in your Christian character."

In closing this note, they desire to renew to you this assurance, and to express their regard for you, as a Christian man and brother, of our beloved Church.

Very truly your friend and brother,

FREDERICK BULL, *Stated Clerk of Session, of M. S. P. C.*

See answer on next page.

As I cannot submit the papers and report, denied to me in the foregoing correspondence, I am constrained to give the substance of it, so far as a brief perusal, and other information received, enable me to do, the correctness of which, so far as it goes, will not be questioned.

On the 7th of June the Committee of Session wrote to Mr. D., enclosing copy of the resolution (see minutes page 87) appointing them, *with power, &c.*, and asking him "when and where he would meet the committee." He asked time for consideration, and in response to the second note from the committee, Mr. D. called upon the chairman of the committee and "declined to have anything to do in the matter."

They then held an interview with me by appointment, during which I offered to meet them and Mr. D., and to put myself in their hands, to do anything they should decide to be my duty in the premises. They expressed themselves perfectly satisfied, and left, hoping still to bring Mr. D. and me together, and determined to make another effort with Mr. D., which they did by letter of June 27th, in which they inform him of their interview with me, and say "they indulge the hope that a friendly reconciliation would be effected by a joint conference of the parties and the committee"—and they repeat their request for a meeting, and ask for a reply.

Mr. Dodge's answer of June 30th refers to his conversation with the chairman of committee; declares that no good would result from such an interview, says "our Pastor understands it"! "The trouble grew out of matters in which I acted officially, with some twelve other gentlemen, and it is not proper for me to act as an individual in relation to them, nor will it be productive of good to attempt it."

There were other papers, containing statements of the committee, copies of letters, &c., all of which were submitted to Session, and are now in their hands;—and although their committee were appointed *with power*, the Session took no notice of Mr. D.'s contumacy, and only suffered to be entered on their minutes that the committee "had been unable to accomplish the object for which they were appointed;" thus leaving it to be *unjustly* inferred that I was equally or wholly to blame for that failure.

Was this impartial action on the part of Session?

In the foregoing quotations we have Mr. D.'s *second* confession, in writing, of my principal complaints against him (see his letter to me, page 25), in which he says: "The implied allegation that process had not commenced. On both these points my advisers differ with Session.

\* Here again we differ. I think the minutes so referred to do *not* "mainly present facts," and, although some of them have been corrected by subsequent action, still they stand upon their records to misrepresent.

extracts you have made were made from a document signed by a number of gentlemen as well as myself," &c., from which may be inferred the reasons for my anxiety to obtain those papers, as well as the apparent cause for withholding them from me.

I think it was a grave error in Mr. D. to put in writing the misstatement that he "acted officially." As well might any one guilty of felony or any other offence, claim that he "acted officially" as the member of the Session of a church. Neither the ecclesiastical or civil law allows a man to commit conspiracy, slander or any other misdemeanor, "officially" in any relation; and acts committed in such combinations and under such circumstances, are usually regarded as more flagrant, because more dangerous and injurious.

It is this very feature in Mr. D.'s acts which has so much aggravated this case, and made this exposition and vindication so necessary.

New York, April 23d, 1868.

*To the Session of the Madison Square Presbyterian Church:*

BROTHEREN: I have received, through your stated clerk, your communication of 21st instant, in reply to mine of 20th ultimo, which seems to have been misunderstood or misconstrued.

I did not ask, or intend to ask Session, anything concerning their former action. Nor did I "request" them "to refer again to this subject." I only renewed and urged a former request for copies of certain papers, the possession of which I claimed, and still claim as a right. For especial reasons I avoided all appearance of asking any favor of Session, and only further repeated "suggestions" which had been made by others, with a view to a final termination and dismissal of all matters pending before Session, connected with my complaints against Mr. Dodge. I think, for the sake of the peace and honor of the Church, it is to be regretted that a simple and judicious plan, suggested as a peace measure, by a most excellent clergyman, a friend of all parties, and which was submitted to your Moderator, and through him to your recent committee (Messrs. W—— and L——), was withheld from Session, for whose consideration and action it was designed. I believe it could have been adopted by Session without any sacrifice of true Christian sentiment, and that it would have resulted in a happy adjustment of all pending difficulties.\*

As was known to some of your number, after much persuasion, I had assented to that programme, and was led to expect that it would be submitted to you.

I suppose it was withheld "in the exercise of" that same "discretion enjoined in our Book of Discipline," which was your authority for dismissing my charges against Mr. Dodge.

\* The plan here referred to, after stipulating that the copies of papers asked for should be given to me, provided 1st, that a minute or resolutions should be adopted by Session, declaring that "the ground of Session's action in declining to enter into a judicial examination of those charges (against Mr. Dodge) was not any opinion formed in regard to them; or, as has been intimated, any imputation upon the personal character of Mr. Phelps, or the propriety of his action in presenting those charges; but simply, as appears upon the records of Session, certain peculiar and embarrassing circumstances connected with the case, making it difficult in their view to take full cognizance of it, and rendering it questionable whether a formal trial would be for the edification of the church or for the honor of the Master."

2dly. "That Session reaffirm their confidence in the Christian character of Mr. Phelps, and disavow all supposed reflection upon it, either expressed or implied."

3dly. "That as the matter has been brought before Presbytery and may have been misapprehended by them, a certified copy of these resolutions be transmitted to their stated clerk, and that a copy be also sent to Mr. Phelps."

This programme was placed in the hands of the Moderator by the ministerial friend alluded to, with the assurance that upon its adoption "substantially" by Session, I would "cease all further proceedings in the case before the Session, and refrain from the publication of this exposition." It was considered by the committee named above, who, instead of submitting it to Session, reported in its stead the foregoing communication of the 21st of April, to be sent to me, and which, as will be seen, differs from this programme in some essential points. 1st. Instead of giving me copies of the papers asked for, it permits only a perusal of them. If it was intended that I should have any useful knowledge of their contents, why not "give me copies at my expense"?

The next and most important proposition was entirely evaded. If Session's action in dismissing my charges against Mr. Dodge was *not* based upon any opinion formed of them, there could certainly be no objection to say so. If, on the contrary, as I believe was the case, their action was based upon such opinion, and a consequent reluctance to act upon them, then, in dismissing them as they did, without reasons assigned, and without receiving my testimony and explanations, Session manifested the unfairness and partiality to which I have alluded in my complaints to Presbytery and to Synod; and hence the importance of getting their more explicit declaration on that point, as well as upon the others submitted.

In my communication I said, "It has been stated, under circumstances to do me great injustice, that the motives which influenced Session in that action, were based upon the reasons assigned for the exercise of discretion, as specified in section 4, of chap iv, of Book of Discipline," &c. It had been so stated to a distinguished clergyman of this city, by "a prominent member of Session;" and further, that those reasons were not assigned in your minutes "because you did not wish to blacken my character"! These statements were made known to some of you. Five of your number, a majority of Session, being asked by me, stated that *their* action was *not* based upon any such reasons. (Another has since made the same declaration.)

I did not believe that more than two of you were so influenced, and therefore it was, I thought you might be glad to disavow so wrong an imputation, in such terms as were submitted to your Moderator by the party referred to; but I expressly declined to make any such request.

It has been further stated to me, by another distinguished clergyman, that a prominent member of Session told him, that Mr. W——'s plan of an adjustment with Mr. Dodge was defeated in consequence of my bringing forward a new proposition, after that agreement had been signed. It cannot be necessary for me to say to you that there is not a shadow of truth in such a declaration. You all know, or ought to know, and I stand ready to prove to you, that the failure of that effort was wholly owing to another; and that Mr. Dodge repudiated, and erased his signature from that agreement, without any good reason, and without my knowledge.\*

Several other erroneous and injurious statements have been reported to me as having been made by one of your number, to which I forbear further allusion. Under these circumstances I must totally dissent from your declaration, that "Session cannot be responsible or accountable for any misconstruction of its actions or motives." Since Session have been apprised of the evils growing out of their action or want of action in declining to use the proper means to counteract and correct those evils, do they not become *particeps criminis*?

You refer to your "resolution of Jan. 12th, and corrected minutes of 29th of same month." No such minutes, adopted so long after my case had been formally dismissed, and my notice of intention and reasons for appeal and complaint were in their possession, can be regarded as regular, or accepted by me as the proper action of Session; nevertheless, I beg to reply that I have never seen, or before heard of any "resolution or minute of Jan. 12th."

I have received copies of supplemental minutes of Dec. 26th, adopted nine days after my charges against Mr. Dodge had been dismissed by Session; which minutes contained palpable misstatements; and I have also received copies of your minutes of Jan. 29th (adopted 48 days after my said complaints had been dismissed in Session, and ten days after the action of Presbytery upon my appeal and complaint), correcting or omitting some of those misstatements; but in which you still do me great injustice and wrong by implication; 1st, in stating or conveying the impression that Mr. Dodge's slanders against me were made in an official capacity, and therefore justified, which is an unauthorized assumption on his part, and which you could not have endorsed, had you permitted me to appear before you with my testimony to explain; and 2dly, in stating, as you did, in reference to the report of the investigating committee, that "no allusion whatever was made to the personal matters complained of by Mr. Phelps." This statement is not in harmony with the facts which were before Session in the documents submitted with my charges, and to which I was always ready to add further testimony and explanation.

In the 5th paragraph of the Report named, it is said, in the very language of Mr. Dodge and his associates, that I "make insinuations against several members of the Board," &c., which is untrue. In the 11th paragraph of same Report is again echoed Mr. Dodge's language, "the ex-President was very injudicious and uncourteous." The 18th paragraph of same Report contains a *verbal* repetition of a gross misstatement of Mr. Dodge and his associates, in reference to my main cause of complaint against Mr. Dodge and some of his associates, viz., "conflicting interests," and consequent

\* See Statement and Correspondence, pages 49 and 50.

dishonest management—by which misstatements the whole question at issue was sadly and wickedly perverted to my injury and wrong.

In the 30th paragraph, the investigating committee quote from the libelous paper of Mr. Dodge and his associates: "It is not the first time the ex-President (meaning myself) has insinuated that the line of the road might have been changed," &c., all of which was untrue and unjustifiable, both on the part of Mr. Dodge and Mr. R—— and his committee; not a word of that kind having been uttered by me as stated.

But, without quoting further from the numerous similar references to the "personal matters complained of," I will only say, that I was prepared to prove to Session, as stated in my charges against Mr. Dodge, that his libels and slanders were calculated, if not designed, "to destroy my reputation and ruin my character, in the estimation of those to whom the said communication was presented, as has also been fully shown in the Review of that Committee's Report, a copy of which is submitted herewith for your further information.

For the sentiments contained in your last paragraph, I trust I feel a becoming gratitude; but the compliment would have been much more acceptable if my name, in one part of that sentence, had not been so coupled with one, who for so many years has persisted in doing me great wrong, and who still stands charged before you with "falsehood, conspiracy, slander," &c., with ample proofs of the same, in your possession, and tendered by me;—the whole confirmed or corroborated by his own recent letters to your committee, and other documents, of which you still refuse to give me copies; in one of which Mr. Dodge says, "The trouble grew out of matters in which I acted with some twelve other gentlemen," and he therefore declines "to act individually" in doing me justice. What a reason for refusing to do a Christian duty and for declining to make reparation for an acknowledged wrong. He thereby virtually acknowledges my charges, but strangely enough pleads as an excuse the very facts which prove the conspiracy charged by me; and gives as a reason for not being reconciled that it would compromise his fellow conspirators.

Several other matters referred to in your communication invite discussion, and cannot be assented to by me; but I now forbear further comment.

I could offer some suggestions upon the propriety of allowing minutes so erroneous as I have shown some of yours to be, to stand uncorrected upon your records, where, for generations to come, they will do great injustice to one, to whom you have so recently been pleased to "renew the assurance of your entire confidence in his Christian character," and to "express your regard, as a Christian and a brother, of our beloved Church."

In closing, I respectfully beg the Session *not* to consider this as either a complaint or a request for any further or other action on their part. As there appears to be so strong an indisposition on the part of some to do me justice, I must look to a more impartial tribunal for that equity which seems to be denied me in this Church of our Blessed Saviour.

Very respectfully yours, &c.,

GEO. D. PHELPS.

*Statement and Opinions of JUDGE BRONSON and MESSRS. MAN & PARSONS—of the calumnies referred to on 2d and 3d pages of this exposition; and as first published in the pamphlet "Railroad Mismanagement."*

As very few even of those who possess the inclination for such investigations, have the time and other requisites necessary to form an intelligent and candid judgment upon so complicated a subject—(especially a question which has become so interwoven with conflicting interests and personal issues)—I have availed myself of the opinions of those whose competency in all these respects will not be questioned by any one.

Few men—not even the parties implicated—have more carefully read *all* the papers appertaining to this case than Judge Bronson and Messrs. Man & Parsons; and no one will question the correctness of their judgment or the honesty of their opinions.

Judge Bronson declined to act professionally in the premises until he should be permitted to exercise his good offices as a peacemaker, which proposition was cheerfully

conceded by me. His repeated efforts to effect a settlement by a reference of the matters in dispute to disinterested parties, were unavailing.

Several other mutual friends have been equally unsuccessful. On application of such, I have repeatedly consented to refer *all the questions at issue* to five disinterested, intelligent gentlemen, to be mutually chosen, and to abide by—and myself to publish the result of such a reference as final. Such a proposition could scarcely be declined by men having *any* confidence in the justice of their cause.

#### JUDGE BRONSON'S OPINION.

"In 1857, when certain by-laws, which had been proposed for adoption by the Delaware, Lackawanna, and Western Railroad Company, were under consideration, George D. Phelps, Esq., who had been the President, and was then a member of the Company, in the course of a written argument in support of the by-laws, made statements or charges affecting six of the Managers\* and the Treasurer of the Company; and a committee of the stockholders was thereupon appointed to investigate those charges.

"Thirteen of the Managers and the President and Secretary of the Company thereupon made and subscribed a written document or paper of great length, containing allegations injurious to the character of Mr. Phelps, and laid the same before the committee. Mr. Phelps, though permitted to see, was not allowed to have a copy of the document. He, however, took several extracts from it, which he has submitted to me and desired my opinion in relation to his means of obtaining redress, but with the assurance that he has no desire to recover damages, nor to resort to an indictment, or any other legal proceedings in the premises, unless the same should be deemed necessary to the proper vindication of his character.

"I do not hesitate to express the opinion that the charges against Mr. Phelps are libelous, and would be so adjudged by the Courts, if the authors cannot establish the truth of what they have said. But after reading several publications by Mr. Phelps on the subject, I cannot think that his character needs any further vindication, and my advice therefore is, that the matter be suffered to rest without a resort to legal proceedings of any kind.

"At the request of Mr. Phelps I have also examined the report made by the above-mentioned committee, and without going into particulars, I must say that the committee failed to state with accuracy the complaints made by Mr. Phelps which led to the investigation, and in that way made him responsible for opinions which he has not advanced. This induced certain publications by Mr. Phelps for the purpose of setting himself right before the public. These publications were followed by 'a card' from the committee, published in September last, which contains imputations amounting to a libel upon Mr. Phelps, if the truth of the charges cannot be established. Still in this case, as well as the other, I think Mr. Phelps has sufficiently vindicated his character before the public, and can well afford to forego a resort to legal proceedings of any kind.

(Signed)

GREEN C. BRONSON."

#### STATEMENT AND OPINION OF MESSRS. MAN. & PARSONS.

MR. GEORGE D. PHELPS:

DEAR SIR: At your request we carefully examined the report of the Committee appointed at a meeting of the stockholders of the Delaware, Lackawanna, and Western Railroad Company, held March 8, 1857, "to investigate the charges made by" you in your argument in favor of the adoption of certain By-Laws for that Company; and in connection with the report, the charges made by you, your communications to the Committee, and the answers of the Managers, as also the various other documents and communications submitted to us bearing upon the matter; and in answer to your request for our opinion have to say:

We understand the *principal* charge made by you to have been, that six of the fourteen Managers of the Company had interests in associations transacting business with

\* Mr. Dodge was one of those Managers.

the Company, so preponderating over their interest in the Company, that by contracts favoring such associations, at the expense of the Company, they must be largely benefited; and that in specified instances contracts had been made to the damage of the Company through the procurement or co-operation of Managers thus interested. Contracts thus made by a well-established rule of law, reiterated in numerous recent cases, are treated in law as a fraud, and have no binding validity or effect.

The situation of the contending interests of such Managers is very clearly shown in the tabular statement at page 68 of your History of May 12, 1857.

The report of the Committee shows that they did not examine this charge.

They seem to have misinterpreted it into a general imputation upon all the Managers of the Company; and their report is mainly made up of a defence against an attack upon the abstract principle of having Managers of a Railroad Company interested in business transactions on the line of the road; an attack not made by you, and not one of the charges the Committee was appointed to investigate.

Having had the faithfulness and courage in these days of corporation abuses to attack a practice tending to the injury of a Company which had committed its interests to your care as its chief officer, you had the right to expect that the Committee would fairly consider the charges made by you, and give a full and free opportunity for you to meet such answer as should be made to them.

The documents show that all the Managers of the Company, under the pretence of defending themselves against a charge never made, so far as we have been able to ascertain the contents of their answer, united in a personal attack upon yourself and your private character. You were not permitted to take a copy of that answer, or even to peruse it, save under the surveillance of members of the Committee, and upon it, and upon the issue claimed by it, was the report made.

It needs but this simple statement to show that the Committee not only did not consider the matters, to investigate which alone were they appointed, but did consider matters with which they had nothing to do.

Where a person, arraigned upon a specific accusation, instead of meeting it, elects to be tried upon a charge framed by himself, and the tribunal before which the trial takes place consents, an acquittal is to be expected, and is of very little value.

You also ask our opinion as to the character of the answer of the Managers, and of the "card" of the Committee, as published in the *New York Times*. As the opinion of Judge Bronson shown us expresses our own views in this matter, we satisfy ourselves with simply stating that we fully coincide in his opinion, and are also firmly convinced that you need no further action on your part to vindicate the course you have taken, or to set yourself right before the public.

Very respectfully, your obedient servants,

MAN & PARSONS.

No. 64 Wall street, New York, March 1, 1859.

When the peculiar, delicate and embarrassing circumstances connected with this case are considered, these opinions will be regarded as pointed and conclusive.

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*Brief extracts from comments of the Press upon official mismanagement of corporate interests, originally published in the pamphlet "Railroad Mismanagement," and now introduced to illustrate the nature of the origin of the matters herein exposed.*

#### THE LAW OF CORPORATIONS.

(From the *N. Y. Times*.)

(This case, in all its most important features, is identical with that of the six managers exposed by me—but does not exhibit so extensive a conspiracy or combination—and consequently its moral character was of a milder type, and its evil influence upon the stockholders less. See the full report of the case in pamphlet form, as printed by William C. Bryant & Co.)

"We have already called public attention to the recent decision of Judge Davies in

the case of the Cumberland Coal Company against Sherman and others. But the leading principle of that decision is one of so much importance, in its application to the general management of Corporations, that it merits more general attention than it has received. \* \* \* The necessity of such reform is universally conceded. We hear constantly, and on every side, of the most flagrant abuses in the management of Corporation trusts—of instances in which the property of stockholders is shamefully sacrificed to the cupidity of officers, and the rights of the great body of owners held entirely subordinate to the private interests of individuals.

"The main point decided by Judge Davies is, that *an officer of a Corporation is legally incapable of trading with that Corporation on his own private account*; and cannot, therefore, as President or other officer of a company, have dealings with himself as an individual. The Judge enters into this question at great length, and quotes a great variety of decisions, both in the English Courts and in our own, to sustain his position. The law seems to be clear, and it rests upon the plainest principles of common justice. An officer of a Corporation is a trustee. He is the agent of the stockholders, and it is his duty to manage the property with sole and exclusive regard to their interests. \* \* \*

"Lord Cranworth, in an opinion cited by Judge Davies, declares it to be a 'rule of universal application that an agent having duties of a fiduciary character to discharge, shall not be allowed to enter into engagements in which *he has or can have a personal interest conflicting, or which possibly may conflict, with the interests of those whom he is bound to protect.*' An officer of a Corporation is legally incapable of trading with that Corporation on his own private account." And Justice Wayne, of the United States Supreme Court, says that 'this rule as expressed, *embraces every relation in which there may arise a conflict between the duty which the vendor or purchaser owes to the persons with whom he is dealing, or on whose account he is acting, and his own individual interest.*' And this position is reiterated and reinforced in a great number of other decisions cited by Judge Davies. \* \* \*

"Let the principle he has laid down, be sustained by the higher tribunals to which it will undoubtedly be carried, and applied vigorously to the management of Corporations of every sort and description in the country—and we should speedily see an end put to the flagrant abuses of trust which are degrading our character, and enriching individuals at the expense of the masses of the people. \* \* \*

\* \* \* "The general mind of the country is thoroughly imbued with the conviction that corruption, speculation, and official robbery have become the order of the day. No denial on the part of those implicated, no whitewashing reports from committees of confederates, can shake that conviction." \* \* \*

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(From the Evening Post.)

"It may be safely assumed that 'principles of equity which (says Judge Davies) have been enunciated and enforced by Hardwicke, Thurlow, Loughborough, Eldon, Cranworth, Story, and Kent, and which the highest courts in our country have declared to be founded on immutable truth and justice, and to stand upon our great moral obligation to refrain from placing ourselves in relations which excite a conflict between self-interest and integrity,' have been well considered, and will operate well in practice."

#### A RIGHTEOUS JUDGMENT RE-ENFORCED.

"We last week briefly noticed a recent decision, delivered by Judge Perry, of Maryland, in the case of the Cumberland Coal and Iron Company, as confirming in all essential points the views already expressed by us on the subject of fiduciary agents, and their liabilities in general. \* \* \*

"I do not hesitate," said the Judge, "to regard the law as requiring from all Directors of Corporations a careful and constant supervision over the rights, interest, and property of the stockholders. The position or office they accept imposes upon them a *sacred obligation*; and a departure from this duty will, in my opinion, be fraught with dangerous consequences to innocent stockholders." \* \* \*

\* \* \* "The management of a Railroad is a great power, and in proportion to its magnitude are the temptations to abuse. By the control of a road, Directors are constantly enabled to enrich themselves. \* \* \* Besides, there are always side operations by which money is to be made. *There will be contracts for freight, and for construction*, in which those behind the curtain have opportunity to engage. In short, fortunes can be amassed without any such violation of trust as is punishable by law. If only those who possess such golden opportunities can agree among themselves, their pathway is smooth. Usually the strong stimulus of self-interest is sufficient for this purpose. *But if a portion of their number should look with disfavor upon proceedings of this sort, it is, as a general thing, not difficult to get rid of such troublesome associates.* The *modus operandi* is well known, and commonly efficacious."



SIR,—*The following reply to an article in the N. Y. Evangelist, of the 29th ult., having been declined by the Editors of that journal, is, in this form, respectfully submitted for your perusal. When read, please give it to your ministerial neighbor or friend.*

*New York, November, 1863.*

THE PROCEEDINGS OF THE SYNOD OF NEW YORK AND NEW JERSEY, AND THEIR EXPOS-  
ITORS, BRIEFLY CRITICISED.

*Editors of the New York Evangelist :*

In your late notice of the proceedings of the Synod of New York and New Jersey, upon the records of the Fourth Presbytery of New York, you make some statements, and draw some inferences, which seem calculated to convey erroneous impressions. Believing that no misrepresentation or wrong was designed, and that your mistakes originated in the proceedings and records commented on by you, and presuming that you would not willingly perpetuate such errors, and that you will cheerfully allow the usual opportunity for correction, the following comments and explanatory statements are submitted for publication.

You say, "*the committee on the records of the Fourth Presbytery of New York made a report, in which the Synod acquiesced without a dissenting voice* (1). *It had been anticipated that it would evoke a warm and perhaps an extended discussion. But the matter at issue was so clearly stated, and the objectionable item of the minutes was so distinctly defined, that those who had prepared to defend the action of the Presbytery, seemed fully satisfied with the result* (2). *In view of the fact that no practical evil had followed the adoption by the Presbytery of the obnoxious premise to its action, in which a principle utterly unconstitutional was embodied, it was deemed inexpedient for the Synod to direct the Presbytery to review or correct its minutes*" (3).

Your first statement may be *literally* true, but, the report from some fifteen or twenty members present, in Synod, is, that the matter was presented at a late hour of the session, in the midst of an animated discussion upon the temperance question, to which many seemed anxious to return,—that there was no discussion of the report whatever, and that its whole consideration by Synod did not occupy more than five or ten minutes.

Secondly. The same "*members present*" generally concur in the opinion that the report was not clear and intelligible,—only two of the number pretending to comprehend its import, and they differed widely in their interpretation of it; and it is now quite certain, that, with a correct understanding of its import, and a fair opportunity for discussion, no such unanimity—if even a majority vote to adopt it—could be had.

But the *main* objection to your article, is in the closing paragraph above quoted; in which, by a misinterpretation of the facts in the case, you seem to justify, or at least *excuse*, what by many is deemed the most exceptionable acts of the



Presbytery; and consequently, and inferentially, to impute blame in another direction.

To make these comments clear to the reader, it is necessary to quote the records of Presbytery reviewed, and so much of the Synodical committee's report thereon, as is supposed to have led to the errors in your article.

Omitting irrelevant matter, the records of the Presbytery are as follows :

"General Rules for Judicatories," in the appendix to the Book of Discipline, were adopted for the government of Presbytery for this session.

A Judicial Committee, according to Rule XL., was appointed, consisting of G. L. Prentiss, D. D.; J. P. Hovey, D. D.; H. B. Smith, D. D.; S. H. Cox, D. D., LL. D.; J. Spaulding, and F. H. Bartholomew, Elder.

The Moderator laid before the Presbytery the appeal and complaint of Mr. —, which was ordered to be put into the hands of the Judiciary Committee.

Mr. — attempted to address Presbytery, but was called to order by the Moderator. He appealed; but Presbytery sustained the decision of the Moderator.

Presbytery resolved itself into an interlocutory meeting. The Judiciary Committee made a report, which was as follows :

The Judicial Committee, in this matter, deem the following principles and facts to be relevant, as well as important and obligatory :

1. An appeal or complaint presupposes a trial on the merits of the case, with a result; which result is identified with the "decision," from which alone the transfer of the case to a superior jurisdiction is recognized by our book.

2. As there has been no trial on the merits of the case, no appellate jurisdiction can, as yet, be invoked.

3. When a case is preferred to the court of first resort, said court is to consider whether it is proper to institute trial, or to dismiss it, as our Book of Discipline, chapter iv., section iv., and in other places, both recognizes and enjoins.

4. In the exercise of Christian discretion and prerogative, the court below appears to have solemnly and unanimously determined against judicial action on its merits, and so have recorded their opinion with sufficient fullness, as previous to any action on the merits of the case. Hence, the committee find and recommend that the matter be dismissed.

Observe, that the foregoing report of the Judicial Committee consists of four premises grouped together as one argument, by the prefatory clause, "*the following principles and facts,*" &c., with the conclusion, "hence" (therefore) "*the committee find (!) and recommend,*" &c.

The *first* of these premises *assumes* that "decision" is identical with, and is limited to "a trial of a case upon its merits." The *second* denies action upon an appeal or complaint because the *determination* of a case is not a decision. The *third* appears to declare for an unlimited and unqualified "discretion," from which there is no appeal, and of which there can be no complaint. And the *fourth* seems plainly to contradict the *first*, though it does not make the *positive* assertion that "the Court below had determined (decided) against judicial action,"—which decision or determination *against* action was made one of the principal specifications in the complaint against Session, then before Synod, for their consideration, and which the Synod wholly ignored. *Presbytery*

The conclusion from the whole argument (the four premises) is, "*Hence the committee find (judicially—decide, determine) and recommend that the matter be dismissed.*"

Upon this record, the Synodical Committee—after quoting a part of Ch. vii., Sec. 1, Par. 2, defining their duties, but omitting and apparently ignoring the 2d injunction, "*to examine whether the proceedings have been wise, equitable, and for the edification of the Church*"—proceed to quote the first premise of the Presbytery's record, which they condemn as "erroneous," and as "a false principle." They then refer to Book of Dis., Ch. vii., Sec. 1, Par. 4—which reads, "*No judicial decision, however, of a judicatory shall be reversed, unless it be regularly brought up by appeal or complaint,*" which seems to be referred to as limiting their action, and excusing them from revising the said records, or reversing the decision of Presbytery.

They then most strangely and erroneously state that, "On the ground of the erroneous principle before stated, the Presbytery declined to use its appellate jurisdiction in a particular case (1). But, inasmuch as it dismissed the case not on this ground (2), but on the ground that 'in the exercise of Christian discretion,' &c. (3)," (quoting the fourth premise above), therefore, "the adoption of the false principle has led to no result which makes it the duty of the Synod to require of the Presbytery to revise and correct its proceedings (4.)" Upon the foregoing four erroneous statements or unauthorized assumptions, your declaration that "no practical evil had followed," seems to have been based. The three foregoing declarations of the Committee marked (1), (2) and (3), and the conclusion drawn therefrom (4), are entirely incorrect, and are not sanctioned or sustained by anything in the records reviewed, or by the discussion, proceedings, or vote had at their adoption by Presbytery. The whole action and report of the Synodical Committee hangs upon the meaning of the adverb "hence" (therefore.) The Committee confine its reference to the *last* of the four premises in the Presbytery's record. This is not only manifest from their deductions, but an explanatory note from one of them most emphatically declares this, and he insists upon that limited definition of the word, "*as a logical term.*"

No such distorted meaning was intended or recognized, either by the Committee of Presbytery, who *used* it—by the members who discussed and voted upon the report—or by those who were present and took no action, "*for the reason that they did not understand it.*" Thirteen of those who were present in Presbytery, including the moderator, clerk, all of the committee except one—now absent—and seven of the ten who voted on the occasion, have been consulted, not one of whom pretends to any such limited use of the word "hence," or that the arguments or discussion of the question were upon the fourth premise solely, or even *mainly*. The majority affirm that the arguments and their votes were upon the ~~two first~~ *first* premises *alone*. It is quite certain that several of the Session whose action was complained of, as well as many of the Presbytery, considered the question of "unlimited and unqualified discretion" to be undetermined by Presbytery; and it still appears to be undecided, and they regard it still, as it in fact was made at the time, the most important matter embraced in the "appeal and complaint" submitted to Presbytery against the Session.

From the foregoing, it would seem that nothing at all was determined in Presbytery, and little or nothing has been really or intelligently decided by Synod—except the "constitutional" questions of appeal and complaint. All else—including your own declaration, that "no practical evil had followed," &c.—seems to hang upon the meaning of "the logical term *hence*," as used in the foregoing records reviewed by Synod; upon the import of the word "decision" as defined in the said records by Presbytery; and in the extent of "the expediency" authorized, and the unlimited and unqualified "discretion enjoined in our Book of Discipline," as assumed by the Session in their resolution dismissing grave charges of falsehood, slander, conspiracy, &c., made "in due form," with the proffer of seventeen most respectable witnesses, and by a responsible accuser, of whom the Session subsequently record in their minutes "their entire confidence in his Christian character," and for whom they renewedly "express their regard as a Christian man and brother, of our beloved Church."

*Hence* (therefore, from all the foregoing premises), we conclude, 1st, that some "practical evil" has followed the adoption by Presbytery of the obnoxious premises—and hence your comments herein reviewed have wrought some "prac-

tical evil," which justifies this explanation; and, 2d, That "in all governments conducted by men, wrong may be done from ignorance, from prejudice, from malice, or from other causes." (Book of Dis., Ch. vii., Par. 1.) And that although our "boasted Presbyterian system is unequalled in its constitution and laws," yet in its judicatories, as in those of our civil and military departments, errors may be committed and wrong done through carelessness and hasty legislation, as well as by the causes quoted above from Book of Dis. And, hence, we think that those who assume to act as "judges in Israel" should be careful in obtaining and stating facts, and also impartial in their decisions, remembering what THE BOOK—Prov. xviii., 15th, and in other places—"both recognizes and enjoins."

On some future occasion, should one occur, a more full exposition of all matters herein referred to may be submitted.

November 5th, 1863.

C.

"The following (additional) principles and facts are relevant, as well as important and obligatory:"

1. *When all other means of removing an offense have failed, the judicatory to which cognizance of it properly belongs SHALL judicially take it into consideration.*" (Book of Dis., Ch. iv., Sec. 1.)

2. *"In all governments conducted by men, wrong may be done from ignorance, from prejudice, from malice, or from other causes."* (Book of Dis., Ch. vii., Par. 1.)

And *"In reviewing the records of an inferior judicatory, it is proper to examine, 1st, whether the proceedings have been constitutional and regular; 2d, whether they have been wise, equitable, and for the edification of the Church;"* and, 3d, *"Correctly recorded."* (Dis., Ch. vii., Sec. 1, Par. 2.)

3. *"All persons who have submitted to a regular trial \* \* \* may APPEAL from any irregularity in the proceedings of the inferior judicatory to a higher,"* &c. And *"any person or persons may (in like manner) COMPLAIN respecting a decision by an inferior judicatory which is deemed unjust."* (Dis., Ch. vii., Sec. 3, Par. 1 to 4, and Sec. 4, Par. 2 and 3.)

4. In violation or disregard of the foregoing laws, and in the distortion or exaggeration of *"Christian discretion and prerogative,"* it appears that judicial trial was peremptorily refused "in the Court of first resort;" *an appeal, and a complaint* of which, were summarily dismissed on technical grounds solely, in the Court of next resort, and that the "review" of the said proceedings was inconsiderately or imperfectly made in the "Court above." Hence (therefore, from the foregoing principles and facts), it is "concluded that wrong has been done through ignorance or other causes," from which some "practical evil has followed," which should *not* have made it *"INEXPEDIENT for the Synod to direct the Presbytery to revise or correct its minutes;"* and "hence we find and recommend that the matter be (*not*) dismissed," but that it be further and *more carefully* considered.

A PRESBYTERIAN.

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NOTE.—From a former exposition of this case, (*"A New Phase in Ecclesiastical Law,"* &c., pages 11 and 12,) it appears that the further prosecution of *"The Appeal,"* and *"The Complaint,"* in Synod, was long since (in May last) abandoned for the reasons, among several others then assigned, that the complainant had *"sufficiently indicated his cause;"* and that *"until their"* (the Session and Presbytery's) *"proceedings are reviewed and corrected, no respect for their decisions can as yet be invoked."*



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